

# FEDERAL REGISTER

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## TITLE 7—AGRICULTURE

### Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

[Tokay Grape Order 1, Amdt. 2]

#### PART 951—TOKAY GRAPES GROWN IN CALIFORNIA

##### REGULATION BY GRADES AND SIZES

**Findings.** (1) Pursuant to the marketing agreement, as amended, and Order No. 51, as amended (7 CFR, Cum. Supp., 951.1 et seq.) regulating the handling of Tokay grapes grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the Industry Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of Tokay grapes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the notice, public rule making procedure, and the 30-day effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 60 Stat. 237) is impracticable and contrary to the public interest in that the time intervening between the date when information upon which this amended regulation is based became available and the time when this amended regulation must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance.

**Order as amended.** The provisions in paragraph (b) (2) of § 951.301 (Tokay Grape Order 1, as amended, 12 F. R. 5518, 5909) are further amended by deleting therefrom "September 6, 1947," and "September 8, 1947," and inserting, in lieu thereof, "September 13, 1947," and "September 15, 1947," respectively.

**Effective time.** The provisions hereof shall become effective at 12:01 a. m., P. s. t., September 13, 1947. However, nothing contained herein shall be construed (1) as effecting or waiving any right, duty, obligation, or liability which has arisen or which, prior to the effective time of the provisions hereof, may arise in connection with any provision of said

Tokay Grape Order 1, as amended (§ 951.301; 12 F. R. 5518, 5909), or (2) as releasing or extinguishing any violation of said Tokay Grape Order 1, as amended, which has occurred or which, prior to the effective time of the provisions, may occur.

(48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 7 CFR, Cum. Supp., 951.1 et seq.)

Done at Washington, D. C., this 11th day of September 1947.

[SEAL]      S. R. SMITH,  
Director Fruit and Vegetable  
Branch, Production and Mar-  
keting Administration.

[F. R. Doc. 47-8435; Filed, Sept. 11, 1947;  
11:34 a. m.]

## TITLE 14—CIVIL AVIATION

### Chapter I—Civil Aeronautics Board [Regs., Serial 397-A]

#### PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OP- ERATIONS OUTSIDE CONTINENTAL LIMITS OF THE UNITED STATES

#### PART 61—SCHEDULED AIR CARRIER RULES TEMPERATURE ACCOUNTABILITY FOR TAKE-OFF LIMITATIONS PERTAINING TO TRANSPORT CATEGORY AIRPLANES USED IN SCHEDULED PASSENGER SERVICE

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 5th day of September 1947.

Special Civil Air Regulation No. 397, adopted by the Board August 21, 1947, effective September 6, 1947 (12 F. R. 5847) revised the temperature accountability requirements for take-off for certain transport category airplanes used in scheduled passenger service. It now appears that additional time is necessary to permit the operations of such airplanes to comply properly with this regulation.

The following special civil air regulation is, therefore, intended to extend the effective date of Special Civil Air Regulation No. 397 from September 6, 1947 to October 15, 1947.

Compliance with the notice and procedures required by paragraphs (a) and (b) of section 4 of the Administrative Procedure Act is impracticable and unnecessary, and a delay in the promulga-

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# FEDERAL REGISTER

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tion of this special regulation would not be in the public interest.

Effective September 6, 1947, the effective date of Special Civil Air Regulation No. 397, is extended from September 6, to October 15, 1947.

(52 Stat. 984, 1007; 49 U. S. C. 425, 551)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,  
Secretary.

[F. R. Doc. 47-8373; Filed, Sept. 11, 1947;  
8:54 a. m.]

## TITLE 26—INTERNAL REVENUE

### Chapter I—Bureau of Internal Revenue, Department of the Treasury

#### Subchapter A—Income and Excess Profits taxes [T. D. 5576]

#### PART 29—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

#### EXCLUSION OF INCOME FROM DISCHARGE OF INDEBTEDNESS

In order to conform Regulations 111 (26 CFR, Part 29) to Public Law 112, 80th Congress, approved June 25, 1947, such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 29.22 (b) (9)–1 of Regulations 111 the following:

PUBLIC LAW 112 (80TH CONGRESS), APPROVED  
JUNE 25, 1947

SEC. 3. The last sentence of section 22 (b) (9) and the last sentence of section 22 (b) (10) of the Internal Revenue Code (relating to exclusion of income from discharge of indebtedness) are hereby amended by striking out "1947" and inserting in lieu thereof "1949"

PAR. 2. Section 29.22 (b) (9)–1 of Regulations 111, as amended by Treasury Decision 5546, approved December 9, 1946, is further amended by striking from the first paragraph and from the third paragraph "January 1, 1948" and inserting in lieu thereof in each instance "January 1, 1950"

PAR. 3. There is inserted immediately preceding § 29.22 (b) (10)–1 of Regulations 111 the following:

PUBLIC LAW 112 (80TH CONGRESS), APPROVED  
JUNE 25, 1947

SEC. 3. The last sentence of section 22 (b) (9) and the last sentence of section 22 (b) (10) of the Internal Revenue Code (relating to exclusion of income from discharge of indebtedness) are hereby amended by striking out "1947" and inserting in lieu thereof "1949"

PAR. 4. Section 29.22 (b) (10)–1 of Regulations 111, as amended by Treasury Decision 5546, approved December 9, 1946 is further amended by striking from the first sentence and from the last sentence "January 1, 1948" and inserting in lieu thereof in each instance "January 1, 1950"

This Treasury decision is published without prior general notice of its proposed issuance for the reason that notice and public rule making procedure in connection therewith is found to be unneces-

sary. See section 4 (a) of the Administrative Procedure Act, approved June 11, 1946.

This Treasury decision shall be effective on the 31st day after the date of its publication in the FEDERAL REGISTER.

(53 Stat. 32, Pub. Law 112, 80th Cong., approved June 25, 1947; 26 U. S. C. 62)

[SEAL] GEO. J. SCHOENEMAN,  
Commissioner of Internal Revenue.

Approved: September 5, 1947.

A. L. M. WIGGINS,  
Acting Secretary of the Treasury.

[F. R. Doc. 47-8378; Filed, Sept. 11, 1947;  
8:46 a. m.]

## TITLE 32—NATIONAL DEFENSE

### Chapter XXIII—War Assets Administration

[Reg. 21]

#### PART 8321—PRICING AND DISTRIBUTION POLICY FOR PRODUCTION MATERIALS AND PRODUCTION EQUIPMENT

War Assets Administration Regulation 21, February 6, 1947, entitled "Pricing and Distribution Policy for Production Materials and Production Equipment" (12 F. R. 976) is hereby revised and amended as hereinafter set forth. New material is indicated by underscoring.

Sec.	Definitions.
8321.1	Scope.
8321.2	Basic policy.
8321.3	Methods of sale.
8321.4	Prices and pricing methods.
8321.5	Maximum and minimum quantities.
8321.6	Precedence for small purchasers.
8321.7	Classes of purchasers.
8321.8	Exclusive sales to one purchaser.
8321.9	Competitive bidding.
8321.10	Disposals of production equipment in short supply by owning agencies.
8321.11	Disposals of production equipment in short supply by disposal agencies.
8321.12	Disposals of integrated plants.
8321.13	Leases and donations of production equipment in short supply.
8321.14	Interpretation of fractions and approval by Administrator.
8321.15	Exhibit A: List of production equipment in short supply.

AUTHORITY: §§ 8321.1 to 8321.15, inclusive, issued under Surplus Property Act of 1944, as amended (58 Stat. 765, as amended; 50 U. S. C. App. Supp. 1611), Public Law 181, 79th Congress (59 Stat. 533; 50 U. S. C. App. Supp. 1614a, 1614b); and Reorganization Plan 1 of 1947 (12 F. R. 4534).

§ 8321.1 *Definitions*—(a) *Terms defined in act.* Terms not defined in paragraph (b) of this section which are defined in the Surplus Property Act of 1944 shall in this part have the meaning given to them in the act.

(b) *Other terms.* (1) "Production materials" as used in this part means those raw or semi-finished materials which are themselves generally employed in the fabrication of end products or incorporated therein. Such materials customarily move from a manufacturer to an industrial user or distributor whose func-

tion combines that of a wholesaler and retailer. "Production materials" does not include finished products which may be incorporated in end products but customarily move to the consumer through wholesalers and retailers. These latter products are governed by the pricing and distribution policy provided for in Part 8322.<sup>1</sup>

(2) "Production equipment" means machine tools, plant equipment and attachments thereto, and similar types of personal property used for, or in conjunction with, production facilities, except land and buildings, whether located in Government-owned or privately owned plants or property.

(3) "Facilities contract" means a lease, rental agreement, or other contract or contract provision, specifically governing the acquisition, use, or disposition of Government-owned machinery, tools, building installations, or other property furnished to or acquired by a war contractor for any war production purpose except incorporation in end products.

(4) "Small business" means any enterprise or group of enterprises under common ownership or control which by reason of its relative size and position in its industry is determined by the War Assets Administration to be a small business.

(5) "Integrated plant" means land, buildings, and production equipment capable of operation as a complete unit.

§ 8321.2 *Scope.* This part shall apply to disposals of production materials and production equipment by disposal agencies in the continental United States, its territories and possessions, except disposals to priority claimants as provided in Part 8302<sup>2</sup> and nonprofit institutions and instrumentalities as provided in Part 8314.<sup>3</sup> Sections 8321.11, 8321.14, and 8321.15 shall apply to owning agencies when disposing of property listed in Exhibit A of this part as contractor inventory, pursuant to other applicable regulations of the Administrator.

§ 8321.3 *Basic policy.* The Congressional policy announced by the Surplus Property Act of 1944 is to discourage monopolistic practices and to foster wide distribution of surplus commodities to consumers at fair prices, utilizing normal channels of trade in such a manner as to strengthen and preserve the competitive position of small business concerns. This part is intended to implement that policy by providing a method for the pricing and distribution of production materials and production equipment as defined herein, and in the case of production equipment in short supply, to limit effectively inequitable distribution which may occur by reason of advantages now enjoyed by war contractors in possession of such production equipment under facilities contracts containing options or other purchase rights by which such contractors may acquire title to production equipment on specified terms or on terms to be negotiated, including the right of first refusal as well

<sup>1</sup> Reg. 22 (11 F. R. 14105; 12 F. R. 1053, 2774).

<sup>2</sup> Reg. 2 (12 F. R. 5323).

<sup>3</sup> Reg. 14 (11 F. R. 11505; 12 F. R. 257).

as the right to acquire production equipment in short supply as contractor inventory.

§ 8321.4 *Methods of sale*—(a) *Fixed prices*. Generally, fixed price sales shall be used in preference to all other methods. The fixed price method of sale shall be used when property is in unused condition, is available in inventory in large quantities, and is either a standard commercial item or is readily marketable; and may be used whenever property, either used or unused, can best be moved by this method. Production equipment which is subject to the pricing provisions provided for in Part 8313<sup>4</sup> shall be sold only pursuant to the provisions of such part.

(b) *Competitive bids*. The competitive bid method of sale may be used where the property is a nonstandard commercial item, or is of unknown marketability, or is available only in mixed lots or small quantities, or when rapid clearance of a site is necessary. In addition, except as to property subject to the pricing provisions of Part 8313, the competitive bid method may be used in disposing of property which remains in inventory after a full and adequate offering has been made at fixed prices to all classes of purchasers, and in the areas in which such property is normally purchased. The competitive bid method includes the use of sealed bids, open bids, and public auctions.

(c) *Negotiated sale*. Negotiated sales may be used by the disposal agency for any one or more reasons set forth in the subparagraphs hereunder: *Provided, however*, That whenever negotiated sales are used, the disposal agency shall prepare and file in writing a full justification of the desirability or necessity for using this method of sale and such sales shall not be consummated except with the approval of a reviewing authority. Such sales may be made:

(1) When the proposed purchasers can perform certain functions necessary to make the property salable, such as repairing, rehabilitating, sorting, grading, or testing, more economically and effectively than the disposal agency or others;

(2) When the property is such a hazard to health and property as to require immediate disposition;

(3) When the property will spoil or deteriorate so rapidly as to jeopardize any disposal unless immediately sold;

(4) When the property is to be sold to a foreign government by or at the request of the State Department;

(5) When the property remains in inventory after a full and adequate offering has been made by competitive bid as provided in § 8321.10 of this part.

(6) When the disposal agency makes a written finding that the property is (i) of so special a nature or manufacture or limited use that only one or a few purchasers would be interested in the acquisition and (ii) that an offering of such property by competitive bidding would prejudice the monetary return to the Government if all such bids were subsequently rejected.

§ 8321.5 *Prices and pricing methods*—(a) *General*. In fixed price sales, prices

shall be established as close to the current market price as practicable, recognizing that they must be attractive enough to move the property in volume and compensate for any unusual features of the property which may add to the difficulty of reselling. Methods of distributing both production materials and production equipment vary in accordance with the nature of the property and the established commercial practices applicable to different types of property. As a consequence, pricing methods must likewise conform to such trade practices and distribution methods.

(b) *Discounts*. (1) Discounts may be granted on the disposal of surplus property only (i) when different price levels are established in order to compensate for the services rendered in the distribution of property to the various levels of trade; or (ii) when a discount is granted pursuant to the provisions of Part 8302 to compensate the Treasury Department for performing distributive services for a disposal agency; or (iii) when a discount is granted pursuant to the provisions of Part 8314 to reflect the benefit which has accrued or may accrue to the United States from the use of surplus property by educational or public-health institutions or instrumentalities. No other discounts shall be given, and there shall be no graded discounts within the same class of purchasers. Discounts may not be granted for volume purchases in any case for any item.

(2) In order to qualify for a price discount in the sale of production equipment normally sold by manufacturers only through the regular and established channels of trade, as compensation for the distributive function to be performed, each order from a distributor or dealer shall bear a certificate signed by such distributor or dealer in the following manner, showing on its face whether he claims to be a distributor or dealer respectively:

It is hereby certified that the distributor or dealer is and expects to continue to be a distributor or a dealer in production materials or production equipment similar to those specified on this order to industrial users and other independent purchasers, and that in consideration of the receipt of the distributor's or dealer's discount on the purchase of surplus property from the United States, in accordance with the War Assets Administrator's price and distribution policy, the purchaser agrees to use his best efforts to sell such property to industrial users and small independent purchasers.

(3) In order to qualify for a price discount in the sale of production equipment normally sold by manufacturers to an industrial user without the intermediate distributive function of a distributor or dealer, purchasers of such equipment may be classified as "discount dealers" if the purpose of such purchase is to engage in a distributive function by effecting a resale of such equipment to users. This discount does not apply,

however, to production equipment in short supply as defined by Exhibit A of this part. For the purpose of qualifying under this subparagraph, purchasers must acquire title to such production equipment as discount dealers for the purpose of resale as distinguished from use. Rebuilders, manufacturers, builders, exporters, dealers, or other distributors shall, as a condition prerequisite to classification as "discount dealers" and a price discount hereunder, execute a certificate signed by such discount dealer which certificate shall appear in each order by such discount dealer in the following form:

It is hereby certified that the purchaser is, and expects to continue to be, a dealer in production equipment of types similar to those specified in this order; is now engaged in the business of buying and selling such production equipment to users; and is acquiring the property listed on this purchase order for the purpose of resale either with or without rebuilding, by export or otherwise, but in any case is not acquiring this property for use as distinguished from resale. In consideration of the dealer's discount on the purchase of surplus property from the United States, in accordance with the War Assets Administrator's price and distribution policy, the purchaser agrees to use his best efforts to effect the resale of such property to users.

(c) *Production materials*. (1) In general, sales of production materials are governed by fixed prices both to ultimate users and to distributors. In the case of most such commodities, the price to the distributor and the user is the same for a specified minimum quantity at which the property may be economically disposed. Consequently, such commodities will be disposed of at one price for one minimum quantity, and only one level of trade shall be applicable. (Examples: commodities which are disposed of in bulk, such as toluene, gasoline, and sulfuric acid.)

(2) Certain production materials follow a trade practice whereby the manufacturer sells in a minimum quantity to both the distributor and the user, allowing a discount to the distributor. In such cases a similar discount will be allowed the distributor by the disposal agency. (Example: steel pipe.)

(3) It is recognized that packaging may be a determinant as to whether any particular material is adaptable for sale to ultimate users through the normal channels of trade including wholesalers and retailers, or for sale to industrial users and distributors. For example, turpentine in tank cars is customarily sold to industrial users and distributors while the same material in five (5) gallon containers is customarily sold through wholesalers and retailers. The disposal agency shall determine, in accordance with customary trade practice, and its packaging, whether any particular material is to be disposed of as a production material pursuant to the provisions of this part or as consumer goods pursuant to Part 8322.

<sup>4</sup> Reg. 13 (12 F. R. 4094).

(d) *Production equipment.* (1) Sales of production equipment are likewise governed by fixed prices, a substantial portion being subject to the pricing provisions provided for in Part 8313.

(2) Production equipment which is not subject to the pricing provisions provided for in Part 8313 is governed by fixed prices to ultimate users or distributors as follows:

(i) Much production equipment generally moves from the manufacturer to an industrial user without the intermediate distributive function of a distributor. Such equipment shall be disposed of at a single price for one minimum quantity and without a discount. (Example: large industrial equipment such as furnaces, mills.)

(ii) Certain production equipment is sold by manufacturers in accordance with a trade practice to industrial users and distributors, allowing a discount to the distributor.

(iii) Finally, some industrial equipment is sold by manufacturers only through the regular and established channels of trade. As a consequence, discounts will be permitted to each level of trade for the distributive function performed. (Example: small industrial tools.)

**§ 8321.6 Maximum and minimum quantities—(a). Maximum quantities.**

(1) The maximum quantity which should be offered by the disposal agency to any one purchaser should to the extent feasible be a quantity which will assure wide distribution of the available property. Such maximum quantities shall be established in all cases where it reasonably may be expected that the total demand will exceed the supply offered for sale within the area in which the offering is made.

(2) In fixed price sales, whenever the available quantity of surplus property is insufficient to satisfy the requirements of eligible purchasers, all purchase orders submitted by affiliated persons, firms, or corporations, or by groups thereof under common ownership or control for the same type of property in a single sales offering shall be treated as a single purchase order.

(b) *Minimum quantities.* The minimum quantity, i. e., the minimum lot size, which should be offered for sale by the disposal agency should to the extent feasible be a quantity which will enable small independent purchasers to participate. Such minimum quantities may be larger when (1) large quantities of merchandise are packaged in military cartons or in bulk containers and it would be uneconomical to repackage the property to provide for sales in smaller quantities, or (2) it is necessary to consolidate several packages in order to assure an equitable or appropriate distribution of the property to each purchaser.

**§ 8321.7 Precedence for small purchasers.** In fixed price sales, when the total supply of a commodity is less than the amount ordered, consideration shall be given to the needs of other purchasers before large quantities are sold to one or a few purchasers. Precedence shall be given to orders received from small purchasers and from distributors who

serve small independent purchasers and who furnish the certificate required by § 8321.5.

**§ 8321.8 Classes of purchasers.** The following conditions shall be observed for the classes of purchasers specified below:

(a) Commercial exporters, foreign governments acting through duly accredited agents in the United States, and foreign commercial firms acting through their duly accredited agents in this country shall be permitted to participate in sales of production materials and production equipment.

(b) Purchasing agents (including resident buyers, commission men, brokers, and other agents) who perform the purchasing function for the principals they represent, shall be permitted to participate in disposals of surplus property. Sales made through these agents shall be made only in the name of the principal they represent and in fixed price sales at the level of distribution of the principal. Such agents shall be required to present a written authorization from the principal for each purchase.

(c) All purchasers who may participate in fixed price sales shall also be eligible to acquire property offered by any other method.

(d) Ultimate users (persons who buy for their own personal use) are not ordinarily expected to purchase surplus property directly from the disposal agency except when such property is offered in suitable lots or units under circumstances which will not complicate the work of disposal; or where sales to ultimate users, for example, through rural farm auctions, would be more effective than offerings by other methods.

**§ 8321.9 Exclusive sales to one purchaser.** It is contrary to general policy to sell any item of surplus property exclusively to one purchaser (including the original vendor or manufacturer). Exceptions may be taken to this rule only when:

(a) It is necessary in order to protect public health or public safety, or

(b) The exclusive purchaser can perform certain functions necessary to make the property salable, such as repairing, rehabilitating, sorting, grading, or testing more economically and effectively than the disposal agency or others, or

(c) The disposal agency makes a written finding that the property is (i) of so special a nature or manufacture or limited use that only one or a few purchasers would be interested in the acquisition and (ii) that an offering of such property by competitive bidding would prejudice the monetary return to the Government if all such bids were subsequently rejected.

**§ 8321.10 Competitive bidding.** (a) Whenever the competitive bid method of sale is employed, an upset price may be established in appropriate cases representing the tentative estimate of the disposal agency as to what may be the fair value of the property. The amount of the upset price shall not be disclosed in the offering nor in any other way to any person not in the employ of the disposal agency. If all or some bids received are lower than such upset price, the disposal agency may reject the bids below the upset price, or, with the approval of the re-

viewing authority may accept them. The unsold balance may be re-offered with the same or a lower upset price.

(b) No certificate or other finding shall be required that the property offered for sale by competitive bidding is scrap or salvage. No scrap warranty shall be required of the purchaser except in cases where the disposal agency finds that the property is dangerous to public health or safety.

(c) Whenever property which has not previously been offered for sale to priority claimants at fixed prices is offered for sale by competitive bidding, a reserve of such property shall be established to meet the anticipated requirements of priority claimants. The competitive bid offering shall be made simultaneously to priority claimants and to non-priority purchasers, and the lowest acceptable bid by such non-priority purchasers shall be regarded as fair value for priority claimants. Any property so reserved which remains after filling the legitimate requirements of priority claimants shall be used to fill the requirements of acceptable non-priority bidders.

**§ 8321.11 Disposals of production equipment in short supply by owning agencies.** Production equipment which the Administrator has determined to be in short supply is listed in Exhibit A of this part. Such exhibit may be amended from time to time to reflect changing circumstances in the supply of production equipment. To assure equitable distribution of this type of property, disposal thereof shall be made only pursuant to the conditions prescribed herein unless approval for deviation from these conditions is secured pursuant to § 8321.15 of this part.

(a) *Sales to contractors in possession under facilities contracts.* Owning agencies empowered to dispose of plant equipment as contractor inventory to contractors in possession pursuant to the provisions of Part 8306,<sup>5</sup> shall make such disposals only in accord with the following:

(1) No item of production equipment in short supply may be disposed of to a contractor in possession unless at the time of sale, or previously thereto, such contractor has released and waived any and all options or other purchase rights to any and all production equipment, including any rights of first refusal provided for by the particular facilities contract.

(2) Subject only to the provisions of paragraph (a) (3) of this section, a contractor may acquire no more than twenty-five (25) per cent in number of each item of production equipment in short supply listed in Exhibit A of this part. In computing such allowance, the base upon which such percentage shall be computed shall include all the short supply items which at the time of sale are owned by the Government under the particular facilities contract, and which are located in the war contractor's plant.

(3) A contractor in possession who is engaged in a small business as defined herein and who desires to acquire for his own use and not for resale production

<sup>5</sup> Reg. 6 (12 F. R. 2353).



equipment from an owning agency may acquire the production equipment covered by the particular facilities contract without limitations as to short supply items, *Provided*, That the total cost to the Government of the production equipment covered by that particular facilities contract does not exceed \$300,000.

(b) *Retention as contractor inventory.* In those cases where contractors, by pre-termination agreements or otherwise, have indicated an intention to retain any production equipment pursuant to the provisions of Part 8309<sup>6</sup> and listed in Exhibit A of this part, then in such event, owning agencies shall be governed by the provisions of paragraph (a) of this section notwithstanding that options or other purchase rights do not exist, when such retention is for the use of such equipment by the contractor. *Provided, however* That retentions for resale by the contractor of any item of production equipment in short supply is not authorized hereunder, and instead such property shall be declared surplus to the appropriate disposal agency pursuant to the applicable regulations of the Administrator.

§ 8321.12 *Disposals of production equipment in short supply by disposal agencies.* (a) In those cases where a contractor seeks to acquire from the disposal agency only a portion of the production equipment acquired by the Government under a facilities contract which provides for existing options or other purchase rights in the contract, then in such event, and in return for a full release and waiver of any and all options or other purchase rights to any and all production equipment, including the right of first refusal as to all the production equipment covered by such facilities contract, the disposal agency may dispose of not more than twenty-five (25) per cent in number of each item of production equipment in short supply as listed in Exhibit A of this part and which are owned by the Government at the time of sale under the particular facilities contract.

(b) In the case of purchasers or lessees of land and buildings being disposed of as industrial or transportation real property, or as airport property, or as marine industrial real property, pursuant to the provisions of Part 8305,<sup>7</sup> and who desire to acquire only a portion of any production equipment located on the premises or used in the operation of any plant situated on such premises, the disposal agency may dispose of production equipment in short supply as listed in Exhibit A of this part and situated on such premises only upon a written representation from the purchaser that he

intends to use such equipment in connection with the productive operation of the land and buildings and that he is not purchasing the production equipment in short supply for the purpose of reselling it, directly or indirectly, at a profit.

§ 8321.13 *Disposals of integrated plants.* Whenever an integrated plant is disposed of pursuant to the provisions of Part 8305, such disposal may include all items of production equipment in short supply which are a part of the integrated plant and located therein, *Provided*, That the purchaser makes a representation in writing that he intends to use such equipment in an integrated plan of operation and that he is not acquiring the production equipment for the purpose of selling it, directly or indirectly, at a profit.

§ 8321.14 *Leases and donations of production equipment in short supply.* Surplus production equipment in short supply as listed in Exhibit A of this part may not be leased by the disposal agency or donated by owning and disposal agencies under the Surplus Property Act, or

any other law, for other than instructional purposes without the approval of the Administrator or such other person as he may designate.

§ 8321.15 *Interpretation of fractions and approval of Administrator* (a) When determining the number of items of production equipment in short supply hereunder by application of a fixed percentage, fractions shall be disregarded and not included in the amount authorized for any purchaser.

(b) No deviation from the fractional rule provided for in paragraph (a) of this section, nor from the twenty-five (25) per cent limitation prescribed by § 8321.11 (a) (2) and § 8321.12 (a) nor from any other limitation prescribed by this part shall be authorized by the owning or disposal agencies unless the approval of the Administrator or such other person as he may designate is first obtained.

This revision of this part shall become effective August 30, 1947.

ROBERT M. LITTLEJOHN,  
Administrator

AUGUST 30, 1947.

#### EXHIBIT A—PRODUCTION EQUIPMENT IN SHORT SUPPLY

Standard commodity classification	Description
(The Standard Commodity Classification is more definitive than the description in those cases where the classification numbers are inclusive. In such cases each inclusive designation is to be considered as an Exhibit A item. Where only one classification is prescribed above as distinguished from an inclusive group, the description is controlling. References are Volume I, May 1943, Standard Commodity Classification.)	
MAJOR GROUP 25—FABRICATED METAL BASIC PRODUCTS	
25-3200 through 25-3290.....	Landpower boilers.
MAJOR GROUP 31—GENERAL PURPOSE INDUSTRIAL MACHINERY AND EQUIPMENT	
31-4600 through 31-4690.....	Overhead conveyors.
31-5100 through 31-5190.....	Cranes, railroad.
31-5200 through 31-5290.....	Overhead traveling cranes (except gantry and monorail.)
MAJOR GROUP 32—ELECTRICAL MACHINERY AND APPARATUS	
32-1311.....	Electric motors, fractional horsepower (less than one horsepower) A. C. only.
32-1321.....	Electric motors (1 to 5 horsepower, inclusive) A. C. only.
32-2210.....	Transformers, power and distribution, all types, 1 to 25 KVA inclusive.
MAJOR GROUP 33—SPECIAL INDUSTRY MACHINERY	
Standard commodity classification	Description
33-2500 through 33-2529.....	Sewing machinery, industrial.
33-3100 through 33-3190.....	Pulp mill machinery.
33-3200 through 33-3290.....	Paper mill machinery.
33-3300 through 33-3390.....	Paper converting machinery.
33-4000 through 33-4900.....	Printing trade machinery and equipment. (Standard general purpose only.)
33-5100 through 33-5190.....	Rubber processing machinery.
33-5200 through 33-5299.....	Rubber fabricating machinery.
33-5300.....	Rubber reclaiming machinery.
33-6000 through 33-6990.....	Woodworking machinery. (Standard general purpose only.)
33-7260.....	Die casting machines. (Standard general purpose only.)

<sup>6</sup> Reg. 9 (12 F. R. 3833).

<sup>7</sup> Reg. 5 (12 F. R. 2028, 3833).

## EXHIBIT A—PRODUCTION EQUIPMENT IN SHORT SUPPLY—Continued

## MAJOR GROUP 34—MACHINE TOOLS AND METALWORKING MACHINERY

NOTE: Major Group 34 revised September 1, 1947.

NOTE: References in right-hand column are intended to facilitate identification and are taken from the Directory of Metalworking Machinery (1947) compiled under the supervision of the Committee on Metalworking Machinery of the Technical Committee on Standard Commodity Classification. In determining Exhibit A items under Major Group 34, this classification shall be used when specified.

Standard commodity classification	Description	Directory of metalworking machinery
34-1322-0 through 34-1322-9	Drills, radial, 3' arm only.	3413-41-10.
34-135-00	Drills, pedestal, 110 volt, including 1/4" capacity (single spindle only).	3413-21-09, 3413-22-09.
34-136-00	Drills, bench, 110 volt, single phase, 0 cycle, including 1/4" capacity (single spindle only).	3413-11-09, 3413-12-09.
34-1600-0	Lathes, engine, screw cutting, bench and floor (not including multi-tool production and manufacturing types, only up to and including 10" swing by 45" center to center).	3410-12-09, 3410-21-09, 3410-22-09.
34-1722-0	Milling machines, horizontal, Universal size No. 2 only.	3417-22-09.
34-1772-0	Duplicator, Gorton model, 8D and 84D only.	3417-04-09.
34-1910-0	Shapers, floor and bench type horizontal, crank and hydraulic 24" stroke and under only.	3410-11-09, 3410-12-09, 3410-13-09.
34-4131-0	Press brakes (6' width and under) capacity up to and including 1/4" thickness of metal.	3441-41-09.
34-4364-0	Presses, open back ineliminable, floor and bench type, 56 ton capacity and under.	3443-11-09.
34-4441-0	Squaring shears, power (6' width and under) up to and including 1/4" capacity thickness of metal.	3445-32-09.

## MAJOR GROUP 44—RAILROAD TRANSPORTATION EQUIPMENT

Standard commodity classification	Description
44-1000 through 44-1903	Locomotives, all types and gauges.
44-4200 through 44-4290	Freight railroad cars, all gauges.

[F. R. Doc. 47-8438; Filed, Sept. 11, 1947; 11:19 a. m.]

## TITLE 39—POSTAL SERVICE

## Chapter I—Post Office Department

PART 21—INTERNATIONAL POSTAL SERVICE  
SERVICE TO FOREIGN COUNTRIES; INCREASED  
SERVICE TO JAPAN

Effective September 5, 1947, the regulations under the country "Japan" (39 CFR, Part 21, Subpart B), as amended (12 F. R. 1891) are further amended as follows:

1. Delete the first sentence in the item "Regular Mails"

2. In the item "Regular Mails" amend the subitem "Air Mail Service" to read as follows:

*Air Mail Service.* Postage rate 25 cents one-half ounce or fraction (or 10 cents each for "Air Letters").

3. In item "Regular Mails" amend the item "Observations" to read as follows:

*Observations.* See parcel post observations concerning addressing.

Commercial papers, printed matter, samples of merchandise and small packets, in addition to letters and post cards, may be accepted for mailing subject to the following restrictions:

(1) Articles prepaid at the letter rate may not contain merchandise.

(2) Although transactional correspondence and business, financial and commercial correspondence, as well as personal and family messages will be permitted, the following types of transactional communications continue to be prohibited:

(a) All messages which transfer currency, checks, drafts, payment orders or other credit or financial instruments;

(b) Messages which relate to conversion, transfer or disguising of any Japanese external assets by powers of attorney, proxies, instructions or other means;

(c) Messages which grant or transfer translation, reproduction, performance or

other rights concerning books, articles, plays, music, motion pictures or other media of information and expression;

(d) Messages relating in any way to patents or copyrights, except for description and explanation of the authorized channels and procedures for handling such matters and except for acknowledgment of rights arranged through the authorized channels.

(3) The following types of commercial papers cannot be transmitted by mail to Japan;

(a) Scores or sheets of music in manuscript;

(b) Manuscripts of works or newspapers sent separately;

(c) All papers of legal procedure;

(d) Documents of all kinds drawn up by ministerial officers.

(4) Articles of printed matter, other than catalogs, photographs, drawings, plans, maps and patterns, may not be accepted.

4. Extend the table of rates in item, "Parcel Post" as follows:

Pounds	Rate	Pounds	Rate
12-----	\$1.68	18-----	\$2.52
13-----	1.82	19-----	2.66
14-----	1.96	20-----	2.80
15-----	2.10	21-----	2.94
16-----	2.24	22-----	3.03
17-----	2.38		

5. Below the table of rates in the item "Parcel Post" change "Weight limit: 11 Pounds" to "Weight limit: 22 Pounds."

6. In the item "Parcel Post" amend the subitem "Observations" to read as follows:

Only one parcel per week may be sent by or on behalf of the same sender to or for the same addressee.

Parcels may contain only relief items. Articles such as fountain pens, watches, cameras and other non-relief items will not be permitted entry into Japan. In addition to such essential relief items as non-perishable foods, clothing, soap and malleable medicines, each gift parcel may not contain more than 200 saccharine tablets and not

more than one item of tobacco, within the following limits:

(a) 200 cigarettes

(b) 50 cigars

(c) One-half pound of pipe tobacco.

The parcels and relative customs declaration must be conspicuously marked "Gift Parcel" by the senders who must itemize the contents and value on the customs declaration.

Parcels which are undeliverable will not be returned to senders but will be turned over to authorized Japanese relief agencies.

Articles and parcels should be addressed in English, but it will be permissible for the address to be shown also in Chinese, Japanese, French, Korean, Russian or Spanish, provided these addressed in the Chinese, Japanese, Korean, or Russian languages bear an interline translation in English of the names of the post office, island, and country of destination.

NOTE: The export control regulations of the Office of International Trade, Department of Commerce (32 CFR, Chapter VIII), are applicable to parcels for delivery in Japan.

(R. S. 161, 396, sec. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL]

J. M. DONALDSON,  
Acting Postmaster General.

[F. R. Doc. 47-8361; Filed, Sept. 11, 1947; 8:51 a. m.]

PART 21—INTERNATIONAL POSTAL SERVICE  
SERVICE TO FOREIGN COUNTRIES; GUATEMALA

The following amendments are made to the regulations under the country "Guatemala" (39 CFR, Part 21, Subpart B)

1. In the item "Regular mails" delete the subitem "Routing"

2. In the item "Regular mails" change the subitem "Air mail service" to read as follows:

*Air mail service.* Postage rate 10 cents one-half ounce.

3. In the item "Regular mails" add a new subitem "Observations" reading as follows:

*Observations.* See "Observations" under "Parcel post" for requirements as to commercial invoices and certificates of origin, which also apply to merchandise sent in the regular mails.

4. In the item "Parcel post" change the table of rates to read as follows:

(Rates include surcharges)

Pounds	Rate	Pounds	Rate
1-----	\$0.39	23-----	\$3.41
2-----	.53	24-----	3.61
3-----	.67	25-----	3.75
4-----	.81	26-----	3.90
5-----	.95	27-----	4.03
6-----	1.09	28-----	4.17
7-----	1.23	29-----	4.31
8-----	1.37	30-----	4.45
9-----	1.51	31-----	4.59
10-----	1.65	32-----	4.73
11-----	1.79	33-----	4.87
12-----	1.93	34-----	5.01
13-----	2.07	35-----	5.15
14-----	2.21	36-----	5.29
15-----	2.35	37-----	5.43
16-----	2.49	38-----	5.57
17-----	2.63	39-----	5.71
18-----	2.77	40-----	5.85
19-----	2.91	41-----	5.99
20-----	3.05	42-----	6.13
21-----	3.19	43-----	6.27
22-----	3.33	44-----	6.41

Weight limit: 44 pounds.  
 Customs declarations: 1 Form 2966.  
 Dispatch Note: No.  
 Parcel post sticker: 1 Form 2922.  
 Sealing: Compulsory.  
 Group shipments: Limited to ordinary parcels.  
 Registration: No.  
 Insurance: Yes.  
 C. O. D.: No.  
 Consular invoice: Yes. (See observations.)  
 Exchange offices: New York, New Orleans, Cristobal, Balboa.

5. In the item "Parcel post" delete the subitems "Routing" "Indemnity" and "Registry return receipts" and insert in lieu thereof the following:

*Insurance.* Parcel-post packages may be insured subject to the following limits of indemnity when prepaid the appropriate postage rates in addition to the fees mentioned.

Limits of indemnity	Fees (cents)
Not over \$10-----	20
From \$10.01 to \$25-----	25
From \$25.01 to \$50-----	35
From \$50.01 to \$100-----	55

Insurance return receipt: Requested at time of mailing, 5 cents; after mailing, 10 cents.

Parcels containing coin, precious metals, jewelry, or other precious articles must be insured.

Each insured parcel must have shown thereon (both in arabic figures and in roman letters spelled out in full) the amount for which the parcel is insured. The amount of insurance must also be shown on the customs declaration.

6. In the item "Parcel post" delete the first paragraph of the subitem "Observations" and insert in lieu thereof the following:

*Observations.* The customs laws of Guatemala require that every importation be accompanied by a certificate of origin, except in the case of merchandise not exceeding \$50.00 in value. Nevertheless, if the articles are subject to restrictions, quotas, or special charges, the certificate is required regardless of their value.

Commercial invoices must accompany all merchandise imported into the country.

Both certificate of origin and commercial invoice must be visaed by a Guatemalan consul or diplomatic representative. Senders should present to the nearest Guatemalan Consul five copies of the commercial invoice covering their parcels. The original invoice which is returned after certification for forwarding to the addressee should be enclosed in the parcel. The remaining copies are retained by the Consul.

7. In the subitem "Observations" under the item "Parcel post" change the list of cities in which Guatemalan Consuls are located to read as follows:

Baltimore, Md.	Mobile, Ala.
Berkeley, Calif.	New Orleans, La.
Boston, Mass.	New York, N. Y.
Brownsville, Tex.	Oakland, Calif.
Chicago, Ill.	Philadelphia, Pa.
Dallas, Tex.	Portland, Oreg.
El Paso, Tex.	St. Louis, Mo.
Galveston, Tex.	San Francisco, Calif.
Houston, Tex.	San Juan, P. R.
Laredo, Tex.	Seattle, Wash.
Los Angeles, Calif.	Tampa, Fla.
Miami, Fla.	

8. In the item "Parcel post" add to the subitem "Prohibitions. For other reasons" the following:

Cigarette paper; any white or yellow paper similar to that used for making cigarettes.

Newspapers, loose or baled, intended for use as wrapping paper.

Confetti of varied colors in the same container.

Spurs for cockfights.

Counters of copper, bronze, brass, or other copper alloys, which may be used for counterfeiting coins, or may pass as coins.

Guatemalan coins.

Copper, bronze, or nickel coins, except antique coins.

Daggers and poniards.

Military supplies of all kinds.

Roulette wheels, gaming tables, and gambling equipment generally.

Automatic lighters.

Cigarettes not in their usual containers.

The following are subject to special authorization for importation:

Telephone, telegraph, and television transmitting equipment of all kinds, and accessories therefor.

Still, rectifiers, and other equipment for distilling ethyl alcohol, and accessories therefor.

Any pharmaceutical, cosmetic, or edible article being imported for the first time.

War materials may be imported only by the Government, through the intermediary of the Ministry of War.

(R. S. 161, 396, sec. 304, 309, 42 Stat. 24, 25, 48 Stat. 943, 5 U. S. C. 22, 369, 372)

[SEAL]

J. M. DONALDSON,  
 Acting Postmaster General.

[F. R. Doc. 47-8362; Filed, Sept. 11, 1947; 8:51 a. m.]

## TITLE 43—PUBLIC LANDS: INTERIOR

### Chapter II—Bureau of Reclamation, Department of the Interior

#### PART 401—APPLICATIONS FOR ENTRY ON PUBLIC LANDS AND WATER RENTAL

##### YUMA PROJECT, ARIZONA-CALIFORNIA VALLEY AND RESERVATION DIVISIONS

CROSS REFERENCE: For public notice opening public lands to entry and announcing availability of water in the Yuma Project, Arizona-California Valley and Reservation Divisions, see F. R. Doc. 47-8358 under Department of the Interior, Bureau of Reclamation, in the Notices section, *infra*.

#### PART 402—ANNUAL WATER CHARGES

##### DESCHUTES IRRIGATION PROJECT NORTH UNIT, OREGON, AND GILA IRRIGATION PROJECT, ARIZONA

CROSS REFERENCE: For additions to the tabulations contained in § 402.2 see F. R. Docs. 47-8356 and 47-8357 under Department of the Interior, Bureau of Reclamation, in Notices section, *infra*.

## TITLE 46—SHIPPING

### Chapter II—United States Maritime Commission

#### Subchapter A—Organization, Procedure, and Delegations

[Rev. Gen. Order 41]

#### PART 201—RULES OF PROCEDURE BEFORE THE COMMISSION

This part prescribes rules of procedure before the United States Maritime Com-

mission in proceedings under the Shipping Act, 1916, Merchant Marine Act, 1936, Administrative Procedure Act, and related acts.

General Order 41, as amended by Supplements 1 and 2, 6 F. R. 4325, 10 F. R. 12818, 11 F. R. 4341, is hereby revised to read:

#### SUBPART A—GENERAL INFORMATION

Sec.	
201.1	Application of rules.
201.2	Mailing address; hours.
201.3	Computation of time.
201.4	Additional time to file documents.
201.5	Compliance with rules or orders of Commission.
201.6	Authentication of rules or orders of the Commission.
201.7	Inspection of records.
201.8	Certified copies; requests for.
201.9	Documents in foreign languages.
201.10	Denial of applications and notice thereof.
201.11	Suspension, amendments, etc., of rules.

#### SUBPART B—APPEARANCES

201.21	Appearances in person or by representative.
201.22	Authority for representation.
201.23	Written appearance.

#### SUBPART C—PARTIES

201.31	Parties; how designated.
201.32	Substitution of parties.

#### SUBPART D—RULE MAKING

201.41	Petition for issuance, etc., of rule.
201.42	Notice of proposed rule making.
201.43	Participation in rule making.
201.44	Contents of rules.
201.45	Effective date of rules.

#### SUBPART E—PLEADINGS AND PREHEARING PROCEDURE

201.51	Complaints.
201.52	Reparation, statute of limitations.
201.53	Joinder of actions and parties.
201.54	Satisfaction of complaint.
201.55	Answers.
201.56	Replies to answers not permitted.
201.57	Opportunity for informal settlement.
201.58	Voluntary payment of reparation.
201.59	Prehearing conference.
201.60	Order to show cause.
201.61	Proceedings under section 3 of the Intercoastal Act.
201.62	Petitions for miscellaneous relief.
201.63	Motions.
201.64	Amendments or supplements to pleadings.
201.65	Bill of particulars.

#### SUBPART F—OPERATING-DIFFERENTIAL SUBSIDY

201.71	Hearings and disposition.
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#### SUBPART G—INTERVENTION

201.81	Petition for intervention.
201.82	Appearances by persons not parties.

#### SUBPART H—FORM AND SERVICE OF DOCUMENTS

201.91	Form and appearance of documents filed with Commission.
201.92	Verification of documents.
201.93	Complaints and other documents served by Commission.
201.94	Service of answers, exceptions, briefs, motions, etc.
201.95	Certificate of service.
201.96	Copies of documents for use of Commission.

#### SUBPART I—SUBPENAS

201.101	Subpenas.
201.102	Attendance and mileage fees.
201.103	Service of subpenas.



## SUBPART J—HEARINGS

- Sec.  
201.111 Informal hearings.  
201.112 Formal hearings.  
201.113 Notice of nature of hearing, jurisdiction, and issues.  
201.114 Notice of time and place of hearing.  
201.115 Presiding officer.  
201.116 Commencement of the functions of Office of Trial Examiners.  
201.117 Applications for extension or postponement.  
201.118 Conduct of hearings.  
201.119 Postponement or change of place by presiding officer.  
201.120 Disqualification of presiding officer.  
201.121 Rules of evidence.  
201.122 Burden of proof.  
201.123 Cumulative evidence.  
201.124 Further evidence during hearing.  
201.125 Written evidence.  
201.126 Exceptions to rulings of presiding officer unnecessary.  
201.127 Documents containing matter not material.  
201.128 Copies of exhibits.  
201.129 Copies of data or evidence.  
201.130 Oral argument at hearings.  
201.131 Records in other proceedings.  
201.132 Tariffs as evidence.  
201.133 Receipt of documents after hearing.  
201.134 Record for decision.  
201.135 Official transcript.  
201.136 Corrections to transcript.  
201.137 Stipulations.

## SUBPART K—SHORTENED PROCEDURE

- 201.151 Selection of cases for shortened procedure; consent required.  
201.152 Complainant's memorandum of facts and argument.  
201.153 Respondent's answering memorandum.  
201.154 Complainant's memorandum in reply.  
201.155 Service of memoranda upon and by interveners.  
201.156 Contents of memoranda.  
201.157 Procedure after filing of memoranda.

## SUBPART L—DEPOSITIONS

- 201.171 Requests for orders to take; time of filing; contents.  
201.172 Contents of order.  
201.173 Record of examination; oath; objections.  
201.174 Submission to witness; changes; signing.  
201.175 Certification and filing by officer; copies.  
201.176 Waiver of objections and admissibility.  
201.177 Time of filing.  
201.178 Inclusion in record.  
201.179 Witness fees; expenses of taking depositions.  
201.180 Depositions taken or authorized by presiding officer.

## SUBPART M—BRIEFS, REQUESTS FOR FINDINGS, AND DECISIONS

- 201.191 Briefs; requests for findings.  
201.192 Extension of time for filing briefs.  
201.193 Authority to make decisions.  
201.194 Separation of functions.  
201.195 Initial, recommended, tentative, and final decisions.  
201.196 Decision based on matter outside of record.  
201.197 Exceptions.  
201.198 Extension of time for filing exceptions.  
201.199 Certification of record by presiding or other officer.

## SUBPART N—ORAL ARGUMENT

- 201.211 Oral argument.

## SUBPART O—REPARATION STATEMENTS

- 201.221 Proof on award of reparation.  
201.222 Reparation statements.

## SUBPART P—REARGUMENTS, RECONSIDERATION, PETITIONS TO TAKE FURTHER EVIDENCE OR FOR MODIFICATION OF RULES OR ORDERS

- Sec.  
201.231 Petitions for reargument, etc.  
201.232 Stay of rule or order.  
201.233 Time for filing petition for reargument, etc.  
201.234 Replies to petitions for reargument, etc.

## SUBPART Q—JUDICIAL REVIEW

- 201.241 Appeal necessary before judicial review.

AUTHORITY: §§ 201.1 to 201.241, inclusive, issued under sec. 204 (b), 49 Stat. 1937, cact. 3, 12, 60 Stat. 238, 244; 48 U. S. C. 1114 (b), 5 U. S. C., Sup., 1002, 1011.

## SUBPART A—GENERAL INFORMATION

§ 201.1 *Application of rules.* The rules in this part govern procedure before the Commission under the Shipping Act, 1916, as amended, Merchant Marine Act, 1936, as amended, Administrative Procedure Act, and related acts, except as may be provided otherwise by the Commission.

§ 201.2 *Mailing address; hours.* Documents required to be filed in and correspondence relating to proceedings governed by the rules in this part should be addressed to "United States Maritime Commission, Washington 25, D. C." The hours of the Commission are from 8:45 a. m. to 5:15 p. m., Monday to Friday, inclusive, except legal holidays.

§ 201.3 *Computation of time.* In computing any period of time under the rules in this part, except § 201.52, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and holidays shall be excluded from the computation.

§ 201.4 *Additional time to file documents.* Parties in the States of Washington, Oregon, and California, and parties who reside beyond continental United States, and their agents or attorneys, are allowed five (5) additional days for filing documents. This section, however, shall not apply where a limitation of time is fixed by statute, nor shall it apply to applications for extension of time to file briefs or to file memoranda excepting to or in support of decisions, or to documents or other writings submitted for the record after the close of hearing.

§ 201.5 *Compliance with rules or orders of Commission.* Persons named in a rule or order must notify the Commission during business hours on or before the day on which such rule or order becomes effective whether they have complied therewith and, if so, the manner in which compliance has been made. If a change in rates is required, the notification must specify the tariffs which effect the changes.

§ 201.6 *Authentication of rules or orders of the Commission.* All rules or orders issued in any proceeding covered by the rules in this part shall, unless

otherwise specifically provided by the Commission, be signed by the Secretary of the Commission in the name of the Commission, and shall be authenticated by the seal of the Commission.

§ 201.7 *Inspection of records.* The files and records of the Commission, except those held by the Commission for good cause to be confidential and not cited as precedents, shall be open to inspection as follows:

(a) Tariffs and agreements required to be filed with the Commission pursuant to statute or rule or order of the Commission may be inspected during business hours in the Division of Regulation at Washington.

(b) All pleadings, depositions, exhibits, transcripts of testimony, decisions (initial, recommended, tentative, and final), exceptions, briefs, rules, and orders in any proceeding under the Shipping Act, 1916, as amended, the Merchant Marine Act, 1936, as amended, and related acts, may be inspected at the Washington office of the Commission. Volumes of United States Maritime Commission reports may be purchased from the Government Printing Office, Washington, D. C. Copies of individual decisions may be secured from the Commission, upon request or may be examined in the regional offices of the Commission.

(c) Other files relating to proceedings under the rules in this part may be inspected in the discretion of the Commission upon written request, describing in detail the documents of which inspection is desired, and the reasons therefor.

§ 201.8 *Certified copies; requests for.* Copies of documents which may be inspected subject to the provisions of § 201.7 will be prepared and certified by the Secretary under the seal of the Commission if written request is made specifying the exact documents, the number of copies desired, and the date on which the same will be required. Such request must permit a reasonable time for the preparation of copies. The cost of preparing copies shall be paid by the applicant.

§ 201.9 *Documents in foreign languages.* Every document, exhibit or other paper written in a language other than English, and filed with the Commission or offered in evidence in any proceeding before the Commission under the rules in this part, or in response to any rule or order of the Commission, pursuant to this part, shall be filed or offered in the language in which it is written, and accompanied by an English translation thereof duly verified under oath to be a true translation.

§ 201.10 *Denial of applications and notice thereof.* Except in affirming a prior denial or where the denial is self-explanatory, prompt written notice will be given of the denial in whole or in part of any written application, petition, or other request made in connection with any proceeding under the rules in this part, such notice to be accompanied by a simple statement of procedural or other grounds for the denial, and any other or further administrative

tive remedies or recourse applicant may have where the denial is based on procedural grounds.

§ 201.11 *Suspension amendment, etc., of rules.* The rules in this part may, from time to time, be suspended, amended, or revoked, in whole or in part. Notice of any such action will be published in the FEDERAL REGISTER.

#### SUBPART B—APPEARANCES

§ 201.21 *Appearances in person or by representative.* A party may appear in person or by an officer, partner, or regular employee of the party or by or with counsel or other duly qualified representative in any proceeding under the rules in this part. One who appears under this section may testify, produce and examine witnesses, and be heard upon brief and at oral argument if oral argument is granted.

CROSS REFERENCE: See sec. 807, *Merchant Marine Act, 1936, General Order 9, 2 F. R. 1240.* For regulations concerning Practice before the Commission, see Part 203 (Revised General Order 21), *infra*.

§ 201.22 *Authority for representation.* Any individual acting in a representative capacity in any proceeding before the Commission may be required to show his authority to act in such capacity.

§ 201.23 *Written appearance.* Persons who appear at any hearing shall deliver a written notation of appearance to the reporter, stating for whom the appearance is made. The written appearance shall be made a part of the record.

#### SUBPART C—PARTIES

§ 201.31 *Parties; how designated.* The term "party" wherever used in this part, shall include any natural person, corporation, association, firm, partnership, trustee, receiver, agency, or public or private organization. A party who seeks relief or other affirmative action under §§ 201.51 and 201.61 shall be designated as "complainant." A party against whom relief or other affirmative action is sought, in any proceeding commenced under §§ 201.51, 201.60, 201.61, or 201.81, shall be designated as "respondent." A party who petitions to intervene under § 201.81, or who, in a proceeding brought under § 201.60, opposes the approval of agreements filed pursuant to section 15 of the Shipping Act, 1916, shall be designated as "intervener." A party who files a petition under § 201.41 or 201.62 of the rules in this part, shall be designated as "petitioner." No person other than a party as designated in this section may introduce evidence or examine witnesses at hearings.

§ 201.32 *Substitution of parties.* Upon petition and for good cause shown, the Commission may order a substitution of parties except that in case of death of a party substitution may be ordered upon suggestion and without the filing of a petition.

#### SUBPART D—RULE MAKING

§ 201.41 *Petition for issuance, etc., of rule.* Any interested party may file with the Secretary of the Commission a petition for the issuance, amendment, or

repeal of a rule designed to implement, interpret, or prescribe law, policy or organization, procedure, or practice requirements of the Commission. The petition shall set forth the interest of petitioner and the nature of the relief desired, and should include any views, arguments, and data deemed relevant by petitioner. If such petition is for the amendment or repeal of a rule, it shall be accompanied by proof of service on all persons, if any, specifically named in such rule.

§ 201.42 *Notice of proposed rule making.* Where a hearing is not required by statute, general notice of proposed rule making, including the information specified in § 201.113, shall be published in the FEDERAL REGISTER, unless all persons subject thereto are named and either are personally served or otherwise have actual notice thereof in accordance with law. Except where notice of hearing is required by statute, this section shall not apply to interpretative rules, general statements of policy, organization rules, procedure, or practice of the Commission, or in any situation in which the Commission for good cause finds (and incorporates such finding in such rule) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

§ 201.43 *Participation in rule making.* When a hearing is not required by statute, interested persons will be afforded an opportunity to participate in rule making through submission of written data, views, or arguments, with or without opportunity to present the same orally in any manner. Where the proposed rules are such as are required by statute to be made on the record after opportunity for a hearing, the procedure shall be the same as stated in Subpart J. In those proceedings in which respondents are named, interested persons who wish to participate therein shall file a petition to intervene in accordance with the provisions of § 201.81.

§ 201.44 *Contents of rules.* The Commission will incorporate in any rules adopted a concise general statement of their basis and purpose.

§ 201.45 *Effective date of rules.* The publication or service of any substantive rule shall be made not less than 30 days prior to its effective date except (a) as otherwise provided by the Commission for good cause found and published in the FEDERAL REGISTER or (b) in the case of rules granting or recognizing exemption or relieving restriction, interpretative rules, and statements of policy.

#### SUBPART E—PLEADINGS AND PREHEARING PROCEDURE

§ 201.51 *Complaints.* Relief or other affirmative action sought under section 22 of the Shipping Act, 1916, as amended, shall be set forth in a complaint filed with the Commission. The complaint must contain the name and address of each complainant, the name and address of complainant's attorney or agent, the name and address of each carrier or person against whom complaint is made, a concise statement of the cause of action, and a request for the relief or other

affirmative action sought. Where reparation is sought, the complaint must set forth the ports of origin and destination of the shipments, consignees, or real parties in interest where shipments are on "order" bill of lading, consignors, date of receipt by carrier or tender of delivery to carrier, names of vessels, bill of lading number (or other identifying reference) description of commodities, weights, measurement, rates, charges made or collected, when, where, by whom and to whom rates and charges were paid, by whom the rates and charges were borne, the amount of damages, and the relief sought. Except under unusual circumstances and for good cause shown, reparation will not be awarded upon a complaint in which it is not specifically asked for, nor upon a new complaint by or for the same complainant which is based upon a finding in the original proceeding. Wherever a rate, fare, charge, rule, regulation, classification, or practice is involved, appropriate reference to the tariff should be made, if possible. If the complaint fails to clearly state facts which support the allegations, the Commission may, on its own initiative, require the complaint to be amended to supply such further particulars as it deems necessary. The complaint must be signed and sworn to by the complainant, or by an officer or duly accredited representative of the complainant if it is an association or a corporation, or by an authorized agent or attorney. When a complaint is filed by several complainants, one may sign on behalf of all. When the complaint is signed and sworn to by an agent or attorney it must state the reason why it is so signed, and must be accompanied by a copy of the power of attorney or other authority of such agent or attorney to prosecute the complaint. A form of complaint is set forth in Appendix II (1) to this part.

§ 201.52 *Reparation, statute of limitations.* Complaints seeking reparation must be filed within two (2) years after the cause of action accrues (section 22, Shipping Act, 1916, as amended). The Commission will consider as in substantial compliance with the statute of limitations a complaint in which the complainant alleges that the matters complained of, if continued in the future, will constitute violations of the shipping acts in the particulars and to the extent indicated, and prays reparation accordingly on all shipments affected thereby which may move during the pendency of the proceeding and on which the transportation charges shall be paid and borne by the complainant. Notification to the Commission that a complaint may or will be filed for the recovery of reparation will not constitute a filing within the 2-year period.

§ 201.53 *Joinder of actions and parties.* Two or more complaints which state similar causes of action against the same respondent or respondents, and involve substantially the same issues may be consolidated and heard together. If a complaint relates to through transportation by continuous carriage or transshipment, all carriers participating in such through transportation should be made respondents. If the complaint re-

lates to more than one carrier or other person subject to the shipping acts, all carriers or other persons against whom a rule or order is sought must be made respondents. If complaint is made with respect to an agreement filed with the Commission under section 15 of the Shipping Act, 1916, as amended, or against a conference organized under said section, the carriers who are parties to such agreement or members of such conference must be made respondents.

**§ 201.54 Satisfaction of complaint.** If a respondent satisfies the complaint either before its answer thereto is due or after answering, a statement to that effect, setting forth when and how the complaint has been satisfied and signed by the opposing parties, must be filed with the Commission. Such a statement may be by letter. Satisfied complaints will be dismissed in the discretion of the Commission.

**§ 201.55 Answers.** The respondent shall file with the Commission an answer to the complaint and shall serve it on the complainant within fifteen (15) days after receipt of the complaint served by the Commission, unless such time has been extended by the Commission. Such answer must give notice of issues controverted in fact or law. The answer must be signed by the respondent, or by an officer or accredited representative of respondent if it is an association or corporation, or by an authorized agent or attorney. Where the answer is made on behalf of several respondents, one may sign on behalf of all. In the event that the respondent should fail to file and serve the answer within the time provided, the Commission may enter such rule or order as may be just, or may in any case require such proof as to the matters alleged in the complaint as it may deem proper: *Provided*, That for good cause shown the Commission may permit the delayed filing of the answer after the time for filing the answer has expired.

**§ 201.56 Replies to answers not permitted.** Replies to answers will not be permitted. New matter set forth in the respondent's answer will be deemed to be controverted.

**§ 201.57 Opportunity for informal settlement.** Where time, the nature of the proceeding, and the public interest permit, all interested parties shall have the opportunity for the submission and consideration of facts, argument, offers, of settlement, or proposal of adjustment, without prejudice to the rights of the parties; no stipulation, offer, or proposal shall be admissible in evidence over the objection of any party in any hearing on the matter. When any settlement does not dispose of the whole proceeding, the remaining issues shall be determined in accordance with sections 7 and 8 of the Administrative Procedure Act.

**§ 201.58 Voluntary payment of reparation.** Carriers or other persons subject to the shipping acts may file applications for the voluntary payment of reparation or for permission to waive collection of undercharges, even though no complaint has been filed pursuant to

**§ 201.51.** All such applications shall be made in accordance with the form prescribed by the Commission, and describe in detail the transaction out of which the claim for reparation arose, and must be filed within the 2-year statutory period referred to in § 201.52. Such applications will be considered the equivalent of a complaint and answer thereto admitting the facts complained of. If allowed, an order for payment will be issued by the Commission.

**§ 201.59 Prehearing conference.** Prior to any hearing the Commission may direct all interested parties, by written notice, to attend a prehearing conference for the purpose of formulating the issues in the proceeding and to determine other matters to aid in its disposition. A properly authorized representative of the Commission shall preside at such conference, which will consider:

- (a) Simplification of the issues;
- (b) The necessity or desirability of amendments to the pleadings;
- (c) The possibility of obtaining admission of fact and of documents which will avoid unnecessary proof;
- (d) Limitations on the number of witnesses;
- (e) The procedure at the hearing;
- (f) The distribution to the parties prior to the hearing of written testimony and exhibits;
- (g) Consolidation of the examination of witnesses by counsel; and
- (h) Such other matters as may aid in the disposition of the proceeding.

The notice of the Commission setting down the cause for hearing will recite the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties concerning any of the matters considered. This notice, when entered, will limit the issues to be heard at the hearing to those not disposed of by admissions or agreements of counsel, and will control the subsequent course of the proceeding unless modified at the hearing to prevent manifest injustice. In any proceeding under the rules in this part, the presiding officer may, in his discretion, call the parties together for a conference prior to the taking of testimony, or may recess the hearing for such a conference, with a view to carrying out the purpose of this section. The presiding officer shall state on the record the results of such conference.

**§ 201.60 Order to show cause.** The Commission may order the carriers or other parties to a tariff filed with the Commission or to an agreement, modification, or cancellation which has been filed with the Commission, whether or not such agreement, modification, or cancellation has been previously approved pursuant to section 15 of the Shipping Act, 1916, to appear and show cause why the Commission should not strike such tariff from its files or disapprove such agreement, modification, or cancellation. The order shall include the information specified in § 201.113 and shall require the carriers or other persons to answer and to appear at a time and place and offer evidence upon the matters specified.

**§ 201.61 Proceedings under section 3 of the Intercoastal Act.** Protests against proposed changes in tariffs, involving the provisions of section 3 of the Intercoastal Shipping Act, 1933, may be made by letter, telegram, or radiogram, and must be filed with the Director, Division of Regulation, not later than ten (10) days prior to the proposed effective date of the change unless the Commission permits the filing of the change in less than ten (10) days prior to the proposed effective date thereof, pursuant to the provisions of section 2 of the Intercoastal Act. Every protest must clearly identify the tariff in question, give specific reference to the items opposed, and set forth the grounds for opposition to the change, including a reference to the section or sections of the shipping acts alleged to be violated. Protests sent by telegraph or radio must be confirmed by letter signed by the person making the protest or by someone in his behalf.

**§ 201.62 Petitions for miscellaneous relief.** All claims for relief or other affirmative action by the Commission, except as otherwise provided by the rules in this part, shall be by petition which shall conform to all the applicable provisions of § 201.41.

**§ 201.63 Motions.** Written motions, unless consented to, shall be accompanied by proof of service upon all parties to the proceeding, any of whom may oppose the granting thereof by filing notice of opposition within seven (7) days after receipt of service. Notice of opposition shall be served on all parties. The motion and notice of opposition shall be addressed to the Commission if the case has not been set for hearing or if such motion is to dismiss or otherwise terminate the proceeding, otherwise the motion shall be addressed to the officer designated to hear the case. Oral argument upon a written motion will be discretionary.

**§ 201.64 Amendments or supplements to pleadings.** Amendments or supplements to any pleading will be allowed or refused in the discretion of the Commission if the case has not been set for hearing, otherwise in the discretion of the officer designated to conduct the hearing. If a response to an amended pleading is necessary, it may be made within the time remaining for the response to the original pleading or within ten (10) days after the service of the amended pleading, whichever period is the longer, unless the Commission or the presiding officer directs otherwise. Amendments or supplements will be served in the same manner as the original pleading. Whenever by these rules a pleading is required to be verified, the amendment or supplement must similarly be verified.

**§ 201.65 Bill of particulars.** Within five (5) days after receipt of service of the complaint, the respondent may file a request for a bill of particulars with the Commission for service upon the complainant. Within ten (10) days after receipt of such request, complainant shall file with the Commission and serve upon respondent either (a) the bill of particulars requested or (b) a reply to such request setting forth the particular

matters contained in the request which are objected to and the reasons for the objections. The time for filing answer to the complaint shall be extended to a date ten (10) days after receipt by respondent of the bill of particulars or of notice of the Commission's disallowance of the request therefor.

#### SUBPART F—OPERATING-DIFFERENTIAL SUBSIDY

§ 201.71 *Hearings and disposition.* The applicable provisions of the rules in this part will apply where a hearing is required by statute in connection with operating-differential subsidies.

#### SUBPART G—INTERVENTION

§ 201.81 *Petition for intervention.* A petition for leave to intervene may be filed in any proceeding under the shipping acts. The petition will be granted if the proposed intervenor has substantial interest in the proceeding and the grounds for intervention are pertinent to the issues already presented and do not unduly broaden them, but if filed after hearing has been closed it will not be granted ordinarily. If a petition filed prior to the hearing is granted, copies will be served upon all parties to the proceeding as provided in § 201.93. When tendered at the hearing, sufficient copies must be provided for distribution as motion papers to the parties represented at the hearing, together with additional copies for the use of the Commission. When the petition is filed subsequent to the hearing, service must be made on all parties to the proceeding as provided in § 201.94. The petition must set forth the grounds of the proposed intervention and the interest of the petitioner in the proceeding, and must comply with the applicable provisions of § 201.51 if affirmative relief is sought. A person granted permission to intervene becomes a party, pursuant to § 201.31, and may introduce evidence or examine witnesses at any hearing which may be held in the proceeding.

§ 201.82 *Appearances by persons not parties.* With the consent of the presiding officer, appearances may be entered by interested persons who are not parties as defined in § 201.31, without petitioning for or receiving permission to intervene. Such persons will receive copies of all notices, rules, orders, and decisions issued in the proceeding, but may not introduce evidence, examine witnesses, or otherwise participate in the proceeding.

#### SUBPART H—FORM AND SERVICE OF DOCUMENTS

§ 201.91 *Form and appearance of documents filed with Commission.* All papers to be filed under this part must be typewritten, mimeographed, multilithed, planographed, photographed, or printed; must be dated, signed in ink, and show the title, if any, and address of the signer. If typewritten, the impression must be on only one side of the paper and must be double spaced, except that quotations should be single spaced and indented. Carbon copies, hectographed copies, white line blueprints, or copies prepared by similar process will

not be accepted. Documents not printed, except correspondence and exhibits, must be on paper not more than 8½ inches wide and 12 inches long, with a left hand margin 1½ inches wide. Printed documents must be printed in clear type (never smaller than small pica or 11-point type) adequately leaded, and the paper must be opaque and unglazed. Documents of more than twenty (20) typewritten pages, except exhibits, must be printed. Briefs, if printed, must be printed on paper 6½ inches wide and 9½ inches long, with inside margin not less than 1 inch wide, and shall contain a subject index with page references and a list of authorities cited.

§ 201.92 *Verification of documents.* Verifications, as required for complaints under § 201.51, petitions for intervention seeking affirmative relief under § 201.81, applications for subpoenas duces tecum under § 201.101, and memoranda filed in shortened procedure cases under subpart K of this part shall take the form of a subscription under oath. The form of verification set forth in Appendix II (1) suitably modified, should be used.

§ 201.93 *Complaints and other documents served by Commission.* Complaints filed pursuant to § 201.51, amendments to complaints, petitions to intervene granted prior to hearing, requests for bills of particulars, and memoranda filed pursuant to subpart K of this part will be served by the Commission, and the mailing date shall constitute the date of service. Therefore, in addition to and accompanying the original of every document filed with the Commission for service by the Commission, there must be a sufficient number of copies for service on each party to the proceeding.

§ 201.94 *Service of answers, exceptions, briefs, motions, etc.* Answers, briefs, exceptions, motions, applications for subpoenas duces tecum, requests for depositions, and all other papers in proceedings before the Commission under the rules of this part, except pleadings served by the Commission under § 201.93, must, when tendered to the Commission or to the presiding officer for filing, show that service has been made upon all parties to the proceedings. Such service shall be made by delivering one copy to each party in person or by mailing by first-class mail properly addressed with postage prepaid. The date of service shall be the date respectively when the document is delivered or mailed. When a party has appeared by attorney or agent, service upon such attorney or agent will be deemed service upon the party. Service need not be made upon persons who enter appearances under § 201.82. All documents served by mail must be mailed in sufficient time to reach the parties on the date on which the original is to be filed with the Commission.

§ 201.95 *Certificate of service.* The original of every document filed with the Commission which is required to be served upon all parties to a proceeding shall be accompanied by a certificate of service, signed by the party making service, stating that such service has been made upon each party to the proceeding.

Certificates of service may be in substantially the following form:

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by mailing via first-class mail, postage prepaid (or by delivering in person) a copy to each such party in sufficient time to reach such party on the due date.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.  
(Signature) \_\_\_\_\_  
For \_\_\_\_\_

§ 201.96 *Copies of documents for use of the Commission.* Except as otherwise provided in the rules in this part, the original and fifteen (15) copies of every document filed and served in proceedings before the Commission, except exhibits made a part of the record, shall be furnished for the Commission's use.

#### SUBPART I—SUBPENAS

§ 201.101 *Subpenas.* Subpenas to require attendance of witnesses and subpoenas duces tecum will be issued in the discretion of the presiding officer before or at the hearing. Applications for subpoenas duces tecum must be in writing, must set forth the relevancy and materiality of the facts which the applicant expects to prove, must describe in detail and with reasonable certainty the books, papers, documents, or other records to be produced, and must be verified.

§ 201.102 *Attendance and mileage fees.* Persons attending hearings under requirement of subpoenas are entitled to the same fees and mileage as in the courts of the United States, to be paid by the party at whose instance the persons are called.

§ 201.103 *Service of subpoenas.* If service of subpoena is made by a United States marshal or his deputy such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereto, describing the manner in which service is made, and return such affidavit on or with the original subpoena in accordance with the form thereon. In case of failure to make service the reasons for the failure shall be stated on the original subpoena. In making service the original subpoena shall be exhibited to the person served, shall be read to him if he is unable to read, and a copy thereof shall be left with him. The original subpoena, bearing or accompanied by required return, affidavit, or statement, shall be returned without delay to the Commission, or if so directed on the subpoena, to the presiding officer before whom the person named in the subpoena is required to appear.

#### SUBPART J—HEARINGS

§ 201.111 *Informal hearings.* The Commission may call informal public hearings, not required by statute, for the purpose of rule making or to obtain information necessary or helpful in the determination of its policies or the carrying out of its duties, and may require the attendance of witnesses and the production of evidence.

§ 201.112 *Formal hearings.* In complaint and answer cases, investigations on the Commission's own motion, and in

other rule-making and adjudication proceedings in which a hearing is required by statute, formal hearings will be conducted pursuant to section 7 of the Administrative Procedure Act.

§ 201.113 *Notice of nature of hearing, jurisdiction, and issues.* Persons entitled to notice of hearings in proceedings other than complaint and answer cases will be duly and timely informed of (a) the nature of the proceeding, (b) the legal authority and jurisdiction under which the proceeding is conducted, and (c) the terms, substance, and issues involved, or the matters of fact and law asserted, as the case may be.

§ 201.114 *Notice of time and place of hearing.* Notices of hearings will designate the time and place thereof and the person or persons who will preside. The date or place of a hearing for which notice has been issued may be changed when warranted. Reasonable notice will be given to the parties or their representatives of the time and place or the change thereof, due regard being had for the public interest and the convenience and necessity of the parties or their representatives. Notice may be served by mail or telegraph.

§ 201.115 *Presiding officer.* The examiners of the Commission's Office of Trial Examiners shall preside at formal hearings, unless the Commission or one or more members thereof shall preside, and also at other hearings when designated to do so by the Commission.

§ 201.116 *Commencement of functions of Office of Trial Examiners.* The functions of the Office of Trial Examiners shall attach upon (a) the filing of the answer in a complaint and answer case, or when the time within which to file the answer has expired, or (b) upon the institution of any proceeding and ordering of hearing by the Commission.

§ 201.117 *Applications for extension or postponement.* Applications for an extension of time for the filing of any pleading or other document or postponement of any hearing date shall set forth the reasons for the application. Copies of the application shall be served on all parties as provided in § 201.94. Such applications may be granted upon a showing of diligence on the part of applicant, except where the time for compliance has been fixed by statute. Applications for extension of time for the filing of briefs and exceptions are subject to the further provisions of §§ 201.192 and 201.198. When an application for an extension of time or postponement shows that the parties have received actual notice of the application, the requirement of service may be waived.

§ 201.118 *Conduct of hearings.* The officer designated to hear a case shall have authority to arrange and give notice of hearings; sign and issue subpoenas authorized by law; take or cause depositions to be taken; rule upon proposed amendments or supplements to pleadings; hold conferences for the settlement or simplification of issues by consent of the parties; regulate the course of the hearing; prescribe the order in which

evidence shall be presented; dispose of procedural requests or similar matters; hear and rule upon motions, other than motions to dismiss, which may be granted only by the Commission; administer oaths and affirmations; examine witnesses; rule upon offers of proof and admit competent evidence; act upon petitions to intervene filed during the hearing and act upon appearances by non-interveners; permit submission of facts, argument, offers of settlement, and proposals of adjustment; hear oral argument at the close of testimony; and dispose of any other matter that normally and properly arises in the course of hearings.

§ 201.119 *Postponement or change of place by presiding officer.* If, in the judgment of the presiding officer, convenience or necessity so requires, he may, after opening the hearing, postpone the hour or change the place thereof.

§ 201.120 *Disqualification of presiding or participating officer.* Any presiding or participating officer may at any time withdraw if he deems himself disqualified, in which case the Commission will designate another presiding or participating officer. If a party to a proceeding, or his representative, files in good faith a timely and sufficient affidavit of personal bias or disqualification of a presiding or participating officer, the Commission will determine the matter as a part of the record and decision in the case.

§ 201.121 *Rules of evidence.* Except as otherwise provided herein, the rules of evidence applied in civil proceedings in the courts of the United States in matters not involving trial by jury shall be applied generally in the formal hearings covered by this part: *Provided*, That the presiding officer may relax said rules in any hearing when, in his judgment, the ends of justice will be better served by so doing. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

§ 201.122 *Burden of proof.* At any hearing in a suspension proceeding under section 3 of the Intercoastal Shipping Act, 1933, as amended, the burden of proof to show that the suspended rate, fare, charge, classification, regulation, or practice is just and reasonable shall be upon the carrier or carriers. In all other cases the burden shall be on the proponent of the rule or order.

§ 201.123 *Cumulative evidence.* The introduction of merely cumulative evidence should be avoided. Where the evidence of witnesses is merely cumulative on any issue, the presiding officer may limit the number of witnesses that may be heard on such issue.

§ 201.124 *Further evidence during hearing.* At any time during the hearing the presiding officer may request a witness to testify concerning such matters or to produce such documentary evidence as will, in the judgment of the presiding officer, aid in the determination of any question of fact in issue. If a wit-

ness refuses to testify or produce the documents as requested, the presiding officer shall report such refusal to the Commission forthwith.

§ 201.125 *Written evidence.* (a) The reading of previously prepared statements into the record by a witness or the examination of a witness by means of written questions and answers should not be resorted to except where necessary to secure a clear presentation of complicated facts. Any portion of such testimony which is argumentative will be excluded. Where it is intended to use previously prepared statements or written questions and answers, copies must be furnished to all parties at the hearing at the time the witness testifies, unless the presiding officer directs otherwise.

(b) Where a formal hearing is held in a rule-making proceeding, interested persons will be afforded an opportunity to participate through submission of competent written evidence properly verified: *Provided*, That such evidence submitted by persons not present at the hearing will not be made a part of the record if objected to by any party on the ground that the person who submits the evidence is not present for cross examination.

§ 201.126 *Exceptions to rulings of presiding officer unnecessary.* Formal exceptions to rulings of the presiding officer are unnecessary. It is sufficient that a party, at the time the ruling of the presiding officer is made or sought, makes known the action which he desires the presiding officer to take or his objection to an action taken, and his grounds therefor.

§ 201.127 *Documents containing matter not material.* Where written matter offered in evidence is embraced in a document containing other matter which is not intended to be offered in evidence, the party offering shall present the original document to all parties at the hearing for their inspection, and shall offer a true copy of the matter which is to be introduced unless the presiding officer determines that the matter is short enough to be read into the record. Opposing parties shall be afforded an opportunity to introduce in evidence, in like manner, other portions of the original document which are material and relevant.

§ 201.128 *Copies of exhibits.* One copy of each exhibit must be furnished to each of the parties present at the hearing and to the presiding officer unless he directs otherwise.

§ 201.129 *Copies of data or evidence.* Every person compelled to submit data or evidence shall be entitled to retain or, on payment of proper costs, procure a copy or transcript thereof.

§ 201.130 *Oral argument at hearings.* A request for oral argument at the close of testimony will be granted or denied by the presiding officer in his discretion.

§ 201.131 *Records in other proceedings.* When any portion of the record before the Commission in any proceeding other than the one being heard is offered



in evidence, a true copy of such portion shall be presented for the record in the form of an exhibit unless the parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference.

§ 201.132 *Tariffs as evidence.* Where any matter contained in a tariff on file with the Commission is offered in evidence, such tariff need not be produced or marked for identification, but the matter so offered shall be specified in its particularity, giving tariff and page number in such manner as to be readily identified, and may be received in evidence by reference, subject to comparison with the original tariff on file.

§ 201.133 *Receipt of documents after hearing.* Documents or other writings to be submitted for the record after the close of the hearing will not be received in evidence except upon agreement of all parties and with the permission of the presiding officer. Such documents or other writings, when submitted, must be accompanied by proof that copies have been served upon all parties, and must be received not later than ten (10) days after the close of the hearing except for good cause shown, and not less than ten (10) days prior to the date set for filing briefs. In computing the time within which to file such documents or other writings, the five additional days provided in § 201.4 shall not apply. Documents or other writings submitted contrary to the provisions of this rule will be returned to the sender.

§ 201.134 *Record for decision.* The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision.

§ 201.135 *Official transcript.* The Commission will designate the official reporter for all hearings. The official transcript of testimony taken, together with any exhibits and any briefs or memoranda of law filed therewith, shall be filed with the Commission. Transcripts of testimony will be available in any proceeding under this part, and will be supplied by the official reporter to the parties and to the public except when required for good cause to be held confidential, at rates not to exceed the maximum rates fixed by contract between the Commission and the reporter.

§ 201.136 *Corrections of transcript.* Motions made at the hearing to correct the record will be acted upon by the presiding officer. Motions made after the hearing to correct the record must be filed within ten (10) days after receipt of the transcript and must be served on all parties. Such motions may be in the form of a letter and shall certify the date when the transcript was received.

§ 201.137 *Stipulations.* The parties may by stipulation in writing filed with the Commission at the prehearing conference or by written or oral stipulation presented at the hearing or by written stipulation subsequent to the hearing, agree upon any facts involved in the proceeding. It is desirable that facts

be thus agreed upon whenever practicable.

#### SUBPART K—SHORTENED PROCEDURE

§ 201.151 *Selection of cases for shortened procedure; consent required.* By consent of the parties and with approval of the Commission by notice, a complaint proceeding may be conducted under shortened procedure without oral hearing: *Provided*, That a hearing may be ordered at the request of any party prior to initial or recommended decision or upon the Commission's motion at any stage of the proceeding.

§ 201.152 *Complainant's memorandum of facts and argument.* Each complainant shall submit to the Commission within fifteen (15) days after receipt of notice from the Commission a memorandum of the facts and arguments, separately stated, upon which it relies. The original of each memorandum shall be accompanied by sufficient copies for service upon each party and for the Commission's use.

§ 201.153 *Respondent's answering memorandum.* Within twenty-five (25) days after the service of complainant's memorandum, each respondent shall serve upon the complainant an answering memorandum of the facts and argument, separately stated, upon which it relies. The original of the answering memorandum must be accompanied by a certificate of service as provided in § 201.95 and must be accompanied by copies for the Commission's use.

§ 201.154 *Complainant's memorandum in reply.* Within fifteen (15) days after the date of service of the answering memorandum, each complainant may serve a memorandum in reply upon each respondent, served as provided in § 201.95, and must be accompanied by copies for the Commission's use. This will conclude presentation of the evidence unless otherwise determined by the Commission.

§ 201.155 *Service of memoranda upon and by interveners.* Service of all memoranda must be made upon any interveners. Intervenors shall file and serve memoranda in conformity with the provisions relating to the parties on whose behalf they intervene.

§ 201.156 *Contents of memoranda.* The memorandum should contain concise (a) arguments and (b) facts sworn to, the same as would be offered if a formal hearing were held and briefs filed. If reparation is sought, paid freight bills should accompany complainant's original memorandum.

§ 201.157 *Procedure after filing of memoranda.* An initial, recommended, or tentative decision will be served upon the parties in the same manner as is provided under § 201.195. Thereafter, the procedure will be the same as that in respect to proceedings after formal hearing.

#### SUBPART L—DEPOSITIONS

§ 201.171 *Request for orders to take; time of filing; contents.* The Commission may, either on its own initiative, pursuant to a prehearing conference or

otherwise, or upon proper request of a party to a proceeding, issue an order to take a deposition. A motion to take a deposition shall be filed with the Commission not less than fifteen (15) days before the proposed date for taking the deposition, and shall set forth the reason for the deposition, the place and time of taking, the officer before whom it is to be taken, the names and addresses of the witnesses, and whether the deposition is to be based upon written interrogatories or upon oral examination. If the deposition is to be based upon oral examination, the motion shall contain a statement of the matters concerning which each witness will testify. If the deposition is to be based on written interrogatories, the motion shall be accompanied by the interrogatories to be propounded. Copies of all motions to take depositions, and accompanying interrogatories, if any, shall be served on all parties. A party served with a motion to take a deposition may object to the taking of such deposition by filing with the Commission and serving upon all parties within five (5) days after receipt of the motion to take a deposition, a notice of such objection stating the reasons therefor. A party served with a motion to take a deposition on written interrogatories shall have ten (10) days after receipt of service of such motion within which to file and serve written cross-interrogatories. Upon the issuance of an order by the Commission for the taking of a deposition, the Secretary will mail a copy thereof to all parties. An application to take a deposition in a foreign country will be entertained when necessary or convenient, and authority to take such deposition will be granted upon such notice and other terms and directions as are lawful and appropriate.

§ 201.172 *Contents of order.* The order issued authorizing the taking of a deposition will state the name and address of each witness, the matters concerning which it is expected such witness will testify, the place where, the time when, and the officer before whom the deposition is to be taken. If the deposition is to be taken upon written interrogatories, a list of the interrogatories will accompany the order.

§ 201.173 *Record of examination, oath, objections.* The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objections to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. Any party served with a notice to take an oral deposition may cross-examine a witness whose testimony is taken under such deposition. In lieu of cross-examination, parties served with notice of taking a deposition may



transmit written interrogatories of cross-interrogatories to the officer taking the deposition, who shall propound them to the witness and record the answers verbatim together with any objections interposed thereto by adverse parties.

§ 201.174 *Submission to witness; changes; signing.* When the testimony is fully transcribed the deposition of each witness shall be submitted to him for examination and shall be read to or by him. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign, together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress the Commission holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

§ 201.175 *Certification and filing by officer; copies.* The officer taking the deposition shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness, and that said officer is not of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. He shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly send the original and two copies thereof, together with the original and two copies of all exhibits, by registered mail to the Commission. Interested parties shall make their own arrangements with the officer taking the deposition for copies of the testimony and the exhibits.

§ 201.176 *Waiver of objections and admissibility.* Objections to the form of question and answer shall be made before the officer taking the depositions by parties or representatives present, and if not so made, shall be deemed waived. Depositions shall, when offered at the hearing, be subject to proper legal objection.

§ 201.177 *Time of filing.* All depositions shall be filed with the Commission not later than the date of the hearing in which they are to be offered as evidence.

§ 201.178 *Inclusion in record.* No deposition shall constitute a part of the record in any proceeding until received in evidence at a hearing unless, prior to the final submission of the case, the Commission determines otherwise.

§ 201.179 *Witness fees; expenses of taking depositions.* Witnesses whose depositions are taken pursuant to this chapter, and the officer taking such depositions, unless he be an employee of the

Commission, shall severally be entitled to the same fees and mileage as are paid for like service in the courts of the United States. All expenses of taking such depositions shall be paid by the party at whose instance the deposition is taken.

§ 201.180 *Depositions taken or authorized by presiding officer.* When the presiding officer shall take or cause depositions to be taken, the rules of this chapter shall govern in so far as applicable unless the proper course of the proceeding requires otherwise, in which case he shall prescribe the procedure to be followed.

#### SUBPART M—BRIEFS, REQUESTS FOR FINDINGS, AND DECISIONS

§ 201.191 *Briefs; requests for findings.* The presiding officer shall fix the time for filing briefs, and the period of time allowed, subject to the provisions of § 201.4, shall be the same for all parties unless the presiding officer, for good cause shown, directs otherwise. Parties may not file more than one brief except in unusual cases. In investigations instituted on the Commission's own motion the presiding officer may require the attorney for the Commission to file a request for findings of fact and conclusions prior to the filing of briefs, and in such cases briefs shall be filed within twenty (20) days after the date of service of such request. Service of the request shall be in accordance with the provisions of § 201.94. In addition to the ordinary summary of evidence and statements of law, with appropriate citations of the transcript, and authorities relied upon, the brief shall contain proposed findings of fact and conclusions in serially numbered paragraphs.

§ 201.192 *Extension of time for filing briefs.* Requests for extension of time within which to file briefs shall conform to the applicable provisions of § 201.117 and must be filed not later than eight (8) days before the expiration of the time fixed for the filing of the briefs. In computing the time within which to file such request, the five additional days provided in § 201.4 shall not apply.

§ 201.193 *Authority to make decisions.* To the examiners of the Office of Trial Examiners is delegated the authority to make and serve initial or recommended decisions. The notice of hearing or order of investigation shall prescribe the kind of decision to be issued. The same officers who preside at the reception of evidence pursuant to section 7 of the Administrative Procedure Act shall make the initial or recommended decision except where such officers become unavailable to the Commission, in which case another officer will be designated to make such decision. Such initial decisions shall be the decisions of the Commission unless exceptions are filed thereto or the Commission on its own initiative reviews the decision. Where the Commission requires the entire record in the case to be certified to it for initial decision, the presiding or other officer shall first recommend a decision, except that in rule making or determining applications for initial li-

censes (a) in lieu thereof the Commission may issue a tentative decision or any of its responsible officers may recommend a decision or (b) any such procedure may be omitted in any case in which the Commission finds upon the record that due and timely execution of its functions imperatively and unavoidably so requires.

§ 201.194 *Separation of functions.* The separation of functions as required by section 5 (c) of the Administrative Procedure Act shall be observed in proceedings under this part.

§ 201.195 *Initial, recommended, tentative, and final decisions.* All decisions will include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and the appropriate rule, order, sanction, relief, or denial thereof. A copy of each decision shall be served on the parties to the proceeding, and furnished to interested persons upon request.

§ 201.196 *Decision based on matter outside of record.* Where a decision rests on the official notice of a material fact not appearing in the evidence in the record, any party, on timely request, will be afforded an opportunity to show the contrary.

§ 201.197 *Exceptions.* Within fifteen (15) days after the service of the initial, recommended, or tentative decision, any party may file a memorandum excepting to or in support of any conclusions, findings, or statements contained in such decision, and a brief in support of such memorandum. The exceptions to or memorandum in support of the report, and brief, shall constitute one document, shall indicate with particularity alleged errors or findings supported, and shall be accompanied by proof of service on all parties. Whenever the officer who presided at the reception of the evidence, or other qualified officer, makes the initial decision, and in the absence of the filing of exceptions thereto or review thereof upon motion of the Commission, such decision by the officer, without further proceedings, shall become the decision of the Commission. Upon the filing of exceptions to or review of an initial decision, such decision shall become inoperative until the Commission determines the matter. Where exceptions are filed to or the Commission reviews an initial decision the Commission, except as it may limit the issues upon notice or by rule, will have all the powers which it would have in making the initial decision. Wherever the Commission shall determine to review an initial decision on its own initiative, notice of such intention shall be served upon the parties within 30 days after the service of the initial decision.

§ 201.198 *Extension of time for filing exceptions.* Requests for extension of time within which to file exceptions, and briefs in support thereof, or memoranda in support of the decision, shall conform to the applicable provisions of § 201.117, and must be filed with the Commission not later than eight (8) days before the

expiration of the time fixed for the filing of the exceptions. In computing the time within which to file such request, the five additional days provided in § 201.4 shall not apply.

§ 201.199 *Certification of record by presiding or other officer.* The presiding or other officer shall certify and transmit the entire record to the Commission when (a) exceptions are filed or the time therefor has expired, (b) notice is given by the Commission that the initial decision will be reviewed on its own initiative, or (c) the Commission requires the case to be certified to it for initial decision.

#### SUBPART N—ORAL ARGUMENT

§ 201.211 *Oral argument.* If oral argument before the Commission is desired on exceptions to an initial, recommended, or tentative decision, or on a motion, petition, or application, a request therefor must be made in writing. Any party may make such request irrespective of his filing a brief or memorandum under § 201.197. If a brief or memorandum is filed excepting to or in support of an initial, recommended, or tentative decision, the request for oral argument must be incorporated in such brief or memorandum. Requests for oral argument on any motion, petition, or application must be made in the motion, petition, or application, or in the reply thereto. Applications for oral argument will be granted or denied in the discretion of the Commission, and if granted, the notice of oral argument will set forth the order of presentation. Upon request, the Commission will notify any party of the amount of time which will be allowed him. Those who appear before the Commission for oral argument should confine their argument to points of controlling importance. Where the facts of a case are adequately and accurately dealt with in the initial, recommended, or tentative decision, parties should, as far as possible, address themselves in argument to the conclusions. Effort should be made by parties taking the same position to agree in advance of the argument upon those who are to present their side of the case, and the names of such persons and the amount of time requested should be received by the Commission not later than ten (10) days before the date set for the argument. The fewer the number of persons making the argument the more effectively can the parties' interests be presented in the time allotted.

#### SUBPART O—REPARATION STATEMENTS

§ 201.221 *Proof on award of reparation.* If many shipments or points of origin or destination are involved in a proceeding in which reparation is sought, the Commission will determine in its report the issues as to violations, injury to complainant, and right to reparation. If complainant is found entitled to reparation, the parties thereafter will be given an opportunity to agree or make proof respecting the shipments and pecuniary amount of reparation due before the order of the Commission awarding reparation is entered. In such cases, freight bills and other exhibits bearing on the details of all shipments, and the

amount of reparation on each, need not be produced at the original hearing unless called for or needed to develop other pertinent facts.

§ 201.222 *Reparation statements.* When the Commission finds that reparation is due, but that the amount cannot be ascertained upon the record before it, the complainant must immediately prepare a statement in accordance with the approved reparation statements which will be found in Appendix II (4) to this part, showing details of the shipments on which reparation is claimed. This statement should not include any shipments not covered by the findings of the Commission. Complainant should forward the statement, together with the paid freight bills on the shipments, or true copies thereof, to the carrier or other person who collected the charges for checking and certification as to accuracy. Statements so prepared and certified shall be filed with the Commission for consideration in determining the amount of reparation due. Disputes concerning the accuracy of amounts may be assigned for conference by the Commission, or in its discretion referred for further hearing.

#### SUBPART P—REARGUMENTS, RECONSIDERATION, PETITIONS TO TAKE FURTHER EVIDENCE OR FOR MODIFICATION OF RULES OR ORDERS

§ 201.231 *Petition for reargument, etc.* A petition for reargument or reconsideration, or a petition to take further evidence either before or after a final rule or order has been issued, must be made in writing, must state the grounds relied upon, and be filed with the Commission and served by petitioner upon all parties or attorneys of record. If the petition be to take further evidence, the nature and purpose of the new evidence to be adduced must be briefly stated, and it must appear that such evidence was not available at the time of the prior hearing. If the petition be for reargument or reconsideration, the matter claimed to have been erroneously decided must be specified and the alleged errors briefly stated. In case of unforeseen emergency, satisfactorily shown by the petitioner, request for modification of rules or orders may be made by telegram or otherwise, upon notice to all parties or attorneys of record, but such request must be followed by a petition filed and served in accordance with the provisions of Subpart H.

§ 201.232 *Stay of rule or order.* No petition or allowance thereof under this subpart, except by special order of the Commission, shall operate as a stay of any rule or order entered by the Commission, except that pending judicial review, and where it finds that justice so requires, the Commission may postpone the effective date of any action taken by it.

§ 201.233 *Time for filing petition for reargument, etc.* A petition for reargument or for reconsideration of final Commission action must be filed within sixty (60) days after the date of such action.

§ 201.234 *Replies to petitions for reargument, etc.* Replies to petitions filed pursuant to § 201.231 shall be filed with

the Commission and shall be served on the petitioner and all other parties or attorneys of record within ten (10) days after receipt of the petition.

#### SUBPART Q—JUDICIAL REVIEW

§ 201.241 *Appeal necessary before judicial review.* Any party not satisfied with the initial decision of a hearing officer must first appeal same to the Commission, by filing exceptions thereto, before resorting to the courts. In the event of such appeal, the initial decision meanwhile shall be inoperative.

By order of the United States Maritime Commission.

[SEAL]

A. J. WILLIAMS,  
Secretary.

AUGUST 19, 1947.

#### APPENDIX I—SCHEDULE OF INFORMATION FOR PRESENTATION IN REGULATORY CASES

The following schedule lists items of information which are pertinent in cases submitted to the Commission pursuant to the regulatory provisions of the Shipping Acts. The list is not intended to be inclusive, nor does it indicate all of the evidence which may be pertinent in specific cases:

1. Identity of complainant; if an individual, complainant's residence; if a partnership, names of partners, business and principal place thereof; if a corporation, name, state of incorporation, and principal place of business. The same information with respect to respondents, interveners, or others who become parties is necessary.
2. Description of commodity involved, with port of origin, destination port, weight, consignor and consignee of shipment, or shipments, date shipped from loading port, and date received at discharging port.
3. Rate charged, with tariff authority for same, and any rule or regulation applicable thereto; the charges collected and from whom.
4. Route of shipment, including any transshipment; bill of lading reference.
5. Date of delivery or tender of delivery of each shipment.
6. Where the rate is challenged and comparisons are made with rates on other commodities, the form, packing, density, susceptibility to damage, liability to contaminate other freight, value, volume of movement, competitive situation, and all matters relating to the cost of loading, unloading, and otherwise handling of the respective commodities.
7. If comparisons are made between the challenged rates and rates on other routes, the evidence showing similarity of service should include at least respective distances, volumes of movement, cost of handling, and competitive conditions.
8. History of rate with reasons for previous increases or decreases of same.
9. When the complaint alleges unjust discrimination or undue prejudice or preference is alleged, the evidence should indicate what manner of discrimination, undue prejudice or preference is involved, whether the shipper, locality, particular description of traffic, or ports or exporters of the United States as compared with their foreign competitors; how the preference or discrimination resulted and the manner in which the carrier or carriers complained of are responsible for the same; how complainant is damaged by the prejudice or discrimination, in loss of sales or otherwise; and care should be exercised to differentiate between the measure of proof of damages required in cases where prejudice or discrimination is charged and where the unreasonableness of rates is charged.
10. Where the disapproval of an agreement filed pursuant to section 15 is sought, facts under which the provisions of that section

By \_\_\_\_\_, *Claimant.*  
\_\_\_\_\_, *Attorney.*  
(Address and date)

## RULES AND REGULATIONS

No. 5—Applications for the Voluntary Payment of Reparation Filed on the Commission's Special Docket Pursuant to Section 4.03 of the Rules of Procedure Are To Be Made on the Following Form. Each Application Must Be Filed in Duplicate.

UNITED STATES MARITIME COMMISSION

Special Docket No. \_\_\_\_\_

\_\_\_\_\_ v.  
(Complainant)

(Respondent)

Request for authority to pay \$\_\_\_\_\_.

To the United States Maritime Commission:

The \_\_\_\_\_ respectfully files this application for an order authorizing the payment to the above-named complainant(s), of \_\_\_\_\_, State of \_\_\_\_\_, of the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_), as reparation in connection with shipment(s) covered and identified by the copies of bills of lading and copies of paid freight bills attached hereto and made a part hereof, such shipment(s) being specifically described as follows:

(1) Commodity (according to tariff description) \_\_\_\_\_

Number of shipments \_\_\_\_\_

Aggregate weight or measurements \_\_\_\_\_

From \_\_\_\_\_

To \_\_\_\_\_

Consignor \_\_\_\_\_

Consignee \_\_\_\_\_

Bill(s) of lading issued by \_\_\_\_\_

At \_\_\_\_\_ Date \_\_\_\_\_

Shipment(s) moved via carrier(s) and route as follows:

Name of vessel(s) on which shipment(s) actually moved \_\_\_\_\_

Aggregate freight charges actually collected \$ \_\_\_\_\_

Date(s) of collection \_\_\_\_\_

Name of carrier making collection \_\_\_\_\_

By whom paid to carrier \_\_\_\_\_

Date(s) shipment(s) delivered \_\_\_\_\_

Name of carrier making delivery \_\_\_\_\_

Basis on which freight charges were collected \_\_\_\_\_

Rate legally applicable \_\_\_\_\_

Tariff \_\_\_\_\_

Rate sought to be applied \_\_\_\_\_

Tariff \_\_\_\_\_

Aggregate freight charges at rate sought to be applied would be \_\_\_\_\_

(2) References to previous, special docket applications, or decided or pending formal docket proceedings, which involve the same rate situation: \_\_\_\_\_

(3) Statement whether there are shipments of others than complainant of the same or similar commodity which moved via respondent's company during the approximate period of time at the legally applicable rate set forth in paragraph (1) hereof, which are entitled to consideration by the Commission in relation to this application: \_\_\_\_\_

#### Explanation and Comments

(Insert here such explanation as the case may require, stating in clear and definite language all facts in support of this application, the reasons why the freight charges actually collected are thought to be unlawful, and whether the alleged violation has been corrected and in what manner this correction has been achieved.) \_\_\_\_\_

The undersigned carrier(s) hereby admits that when exacted the freight charges collected were unlawful in violation of section(s) \_\_\_\_\_ of the Shipping Act, 1916, as amended.

Respectfully submitted.

(Respondent)

By \_\_\_\_\_

(Title)

(Date)

This application is concurred in by:

By \_\_\_\_\_

(Title)

State of \_\_\_\_\_, County of \_\_\_\_\_, ss:

I, \_\_\_\_\_, on oath depose and say that I am \_\_\_\_\_ of the within-named applicant, on whose behalf I make this affidavit; that I have read the foregoing application and know the contents thereof; and that the same is true.

Subscribed and sworn to before me, a notary public in and for the State of \_\_\_\_\_, county of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19\_\_\_\_.

[SEAL]

Notary Public.

My Commission expires \_\_\_\_\_

#### Certificate of Complainant

I hereby certify that charges of \$\_\_\_\_\_ on the shipments involved herein were paid and borne as such by \_\_\_\_\_ Company, and by no other.

(Complainant)

By \_\_\_\_\_

(Title)

Subscribed and sworn to before me, a notary public in and for the State of \_\_\_\_\_, county of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19\_\_\_\_.

[SEAL]

Notary Public.

My Commission expires \_\_\_\_\_

Where the application is for authority to refund to the consignee when the papers show that the charges were paid by the consignor, or vice versa, or where the complainant is neither the consignor nor consignee, the Commission requires that a stipulation be submitted with the application, signed by the consignor, by the consignee, and by an executive or general officer of the carrier in substantially the following form:

**Title.** (Here insert names of complainant and respondent(s) as in application to which stipulation relates.)

The undersigned \_\_\_\_\_, the consignor of the following-described shipment (here insert date, commodity, and points of origin and destination) and \_\_\_\_\_, the consignee thereof, and the undersigned \_\_\_\_\_ (name of carrier), stipulate and agree that any order entered in the above-entitled informal complaint for a refund on account of the excessive freight charges collected on said shipment shall be in favor of \_\_\_\_\_ (here insert name of consignor or consignee, as the case may be).

(Signature of consignor)

[SEAL]

(Signature of consignee)

(Signature of carrier)

[F. R. Doc. 47-8380; Filed, Sept. 11, 1947; 8:46 a. m.]

[Rev. Gen. Order 21]

#### PART 203—PRACTICE BEFORE THE COMMISSION

Sec.

203.1 Practice before the Commission defined.

203.2 Attorneys at law.

203.3 Persons not attorneys at law.

203.4 Firms and corporations.

203.5 Hearings.

203.6 Suspension or disbarment.

203.7 Statement of interest.

Sec.

203.8 Former employees.

203.9 Former employees; affidavit.

203.10 Former employees; applications for consent.

203.11 Assistance to or by former employees.

**AUTHORITY:** §§ 203.1 to 203.11, inclusive, issued under sec. 204 (b), 49 Stat. 1987; 46 U. S. C., § 1114 (b).

§ 203.1 *Practice before the Commission defined.* Practice before the Commission shall be deemed to comprehend all matters connected with the presentation of any matter to the Commission, including the preparation and filing of necessary documents, and correspondence with and communications to the Commission. The term "Commission" as used herein includes any bureau, division, branch, section, unit, office or field office of the United States Maritime Commission and any officer or employee of such bureau, division, branch, section, unit, office, or field office.

§ 203.2 *Attorneys at law.* Attorneys at law who are admitted to practice before the Federal courts or before the courts of any state or Territory of the United States may practice before the Commission. An attorney's own representation that he is such in good standing before any of the courts herein referred to will be sufficient.

§ 203.3 *Persons not attorneys at law.* Any person who is not an attorney at law may be admitted to practice before the Commission if he is a citizen of the United States and files proof to the satisfaction of the Commission that he possesses the necessary legal, technical, or other qualifications to enable him to render valuable service before the Commission and is otherwise competent to advise and assist in the presentation of matters before the Commission. Applications by persons not attorneys at law for admission to practice before the Commission shall be made on the forms prescribed therefor, which may be obtained from the Secretary of the Commission, and shall be addressed to the United States Maritime Commission, Washington, D. C. No person who is not an attorney at law and whose application has not been approved shall be permitted to practice before the Commission. This provision and the provisions of §§ 203.5, 203.6, and 203.7 shall not apply, however, to any person who appears before the Commission on his own behalf or on behalf of any corporation, partnership, or association of which he is an officer or regular employee.

§ 203.4 *Firms and corporations.* Practice before the Commission by firms or corporations on behalf of others shall not be permitted.

§ 203.5 *Hearings.* The Commission in its discretion may call upon the applicant for a full statement of the nature and extent of his qualifications. If the Commission is not satisfied as to the sufficiency of the applicant's qualifications, it will so notify him by registered mail, whereupon he may request a hearing for the purpose of showing his qualifications. If he presents to the Commission no request for such hearing within 20 days

after receiving the notification above referred to, his application shall be acted upon without further notice.

§ 203.6 *Suspension or disbarment.* The Commission may, in its discretion, deny admission to, suspend, or disbar any person from practice before the Commission who, it finds, does not possess the requisite qualifications to represent others, or is lacking in character, integrity, or proper professional conduct. Any person who has been admitted to practice before the Commission may be disbarred from such practice only after he is afforded an opportunity to be heard.

§ 203.7 *Statement of interest.* The Commission, in its discretion, may call upon any practitioner for a full statement of the nature and extent of his interest in the subject matter presented by him before the Commission. Attorneys retained on a contingent fee basis shall file with the Commission a copy of the contract of employment.

§ 203.8 *Former employees—(a) Practice prohibited.* No person shall practice, appear, or represent anyone before the Commission in any matter to which he, as member, officer, or employee of the Commission, or as officer or employee of the United States gave personal consideration or as to the facts of which he gained knowledge during and by reason of his Government service.

(b) *Further prohibitions with exceptions.* No former member of the United States Maritime Commission shall practice, appear, or represent anyone before the Commission or act as the employee of an attorney or agent, in any matter which was pending before the Commission during the period of his membership in the Commission. No former officer or employee of the United States Maritime Commission shall practice, appear, or represent anyone before the Commission, or act as the employee of an attorney or agent, within two years after the termination of his service with the Commission, in any matter which was pending before the Commission during the period of his employment by the Commission, unless he shall first obtain the written consent of the Commission. This consent will not be granted unless it appears that the applicant did not, as officer or employee of the United States, give personal consideration to the matter, to handle which consent is sought, or gain knowledge of the facts of said matter during and by reason of his Government service.

§ 203.9 *Former employees; affidavit.* Such applicant shall be required to file an affidavit to the effect that he gave no personal consideration to such matter and gained no knowledge of the facts involved in such matter during and by reason of his Government service, and that he is not associated with, and will not in such matter be associated with, any former member, officer, or employee of the Commission who has gained knowledge of the matter during and by reason of his Government service; and that his employment is not prohibited by any law

of the United States or by the regulations of the Commission. The statements contained in such affidavit shall not be sufficient if disproved by an examination of the files and records of the case.

§ 203.10 *Former employees; applications for consent.* Applications for consent should be directed to the Commission and should state the former connection with the Commission of the applicant and identify the matter in which the applicant desires to appear. The applicant shall be promptly advised as to his privilege to appear in the particular matter, and the application, affidavit, and consent, or refusal to consent, shall be filed by the Commission in its records relative thereto. Separate consents to appear must be obtained to appear in separate cases.

§ 203.11 *Assistance to or by former employees.* No one entitled to practice before the Commission shall knowingly (a) assist a person employed by a client to represent him before the Commission in connection with any matter to which such person as a member, officer, or employee of the Commission, or as an officer or employee of the United States, gave personal consideration or as to the facts of which such person gained personal knowledge during and by reason of his Government service, or (b) accept assistance from any such person in connection with any such matter, or (c) share fees with any such person in connection with such matter.

By order of the United States Maritime Commission.

[SEAL]

A. J. WILLIAMS,  
Secretary.

SEPTEMBER 3, 1947.

#### APPENDIX I—APPLICATION FOR ADMISSION TO PRACTICE BEFORE THE UNITED STATES MARITIME COMMISSION<sup>1</sup>

(All questions must be fully answered)

I hereby apply for admission to practice before the United States Maritime Commission under the rules for the registration of persons entitled to practice before the Commission, and submit the following:

1. Name \_\_\_\_\_  
(Last name) (First name)  
(Middle name or initial)
2. Business address \_\_\_\_\_
3. Residence address \_\_\_\_\_
4. Are you a citizen of the United States? \_\_\_\_\_
5. Date of birth \_\_\_\_\_
6. Place of birth \_\_\_\_\_
7. Present occupation \_\_\_\_\_
8. Occupation and employment during the last 5 years \_\_\_\_\_
9. Have you been admitted to practice before any other department, bureau, or commission of the United States Government? If so, state details. \_\_\_\_\_
10. Have you ever been denied admission to practice, or disbarred or suspended from practice before any court, department, bureau, or commission of any State or the United States? If so, explain fully. \_\_\_\_\_

<sup>1</sup> Approved Aug. 19, 1947.

11. Describe fully what steps you have taken to familiarize yourself with (1) the provisions of the Merchant Marine Act, 1936, Shipping Act, 1916, and kindred acts; (2) the decisions of the courts, and of the Maritime Commission and its predecessors, with respect to matters now under the jurisdiction of the Maritime Commission; and (3) your experience, if any, in conducting cases before regulatory commissions, State or Federal: \_\_\_\_\_

12. State any additional facts relied upon to show that you are possessed of the necessary qualifications to render valuable services and competent to advise and assist persons in proceedings before the Commission: \_\_\_\_\_

13. In connection with what branch of the Commission's activities do you intend to practice? Please specify: \_\_\_\_\_

14. Do you intend to engage in general practice before the Commission, or only for a company of which you are an officer or regular employee? \_\_\_\_\_

15. (a) Have you ever been an officer or employee of the United States? \_\_\_\_\_

(b) If so, state the branch of service, with dates of appointment to and separation from service, together with reason for separation: \_\_\_\_\_

(c) Have you ever been employed by the United States Maritime Commission? \_\_\_\_\_

(d) If so, state date of separation from service, together with reason for separation: \_\_\_\_\_

16. Give the names and business addresses of three persons, NOT relatives, who have knowledge of your experience, ability, and character. (Only one reference may be from a present business partner or associate.)

Full name	Business address	Business or occupation
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

(Signature of applicant)

State of \_\_\_\_\_, County of \_\_\_\_\_, ss:

\_\_\_\_\_, being first duly sworn, on his oath deposes and says that he is the person named in the foregoing application for admission to practice before the United States Maritime Commission, and that the statements of facts therein contained are true.

(Signature of applicant)

Subscribed in my presence, and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

[SEAL]

Notary Public.

My commission expires \_\_\_\_\_

#### APPENDIX II—FORM OF OATH TO BE EXECUTED BY APPLICANTS FOR ADMISSION TO PRACTICE BEFORE THE UNITED STATES MARITIME COMMISSION<sup>1</sup>

State of \_\_\_\_\_, County of \_\_\_\_\_, ss:

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will conduct myself according to law and the rules for the registration of persons entitled to practice before the United States Maritime Commission; that my conduct will be upright, without misrepresentation by concealment or otherwise, and such, so far as in my power, as will justify the confidence reposed in me by the Commission and its members, and by parties whom I may at any time represent, and as will promote and maintain respect for the United States, the



Commission, and those who are entitled to practice before it.

-----  
(Signature)  
Subscribed and sworn to before me  
this ----- day of -----, 19--  
[SEAL] -----  
Notary Public.

My commission expires -----  
[F. R. Doc. 47-8379; Filed, Sept. 11, 1947;  
8:46 a. m.]

## TITLE 49—TRANSPORTATION AND RAILROADS

### Chapter I—Interstate Commerce Commission

[S. O. 624, Amdt. 8]

#### PART 95—CAR SERVICE

##### MOVEMENT OF GRAIN TO TERMINAL ELEVATORS BY PERMIT

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 8th day of September A. D. 1947.

Upon further consideration of Service Order No. 624 (11 F. R. 12183) as amended (11 F. R. 13792, 14272; 12 F. R. 48, 775, 1420, 4185, 4516) and good cause appearing therefor it is ordered, that:

Section 95.624 *Movement of grain to terminal elevators by permit*, of Service Order No. 624, as amended be, and it is hereby, further amended by substituting the following paragraph (b) for paragraph (b) thereof:

(b) *Appointment of agent and designation of duties.* (1) Mr. Paul B. Christian, Railway Transport Department, Office of Defense Transportation, Room 5139 ICC Building, Phone: Republic 7500, Ext. 73208, is hereby designated and appointed as an agent of this Commission and authorized to appoint elevators or delivering carriers in the port areas as permit agents under paragraph (a) of this section.

(2) In appointing elevators and delivering carriers in port areas described herein as permit agents Mr. Christian is authorized to prescribe the terms and conditions under which permits may be issued and is authorized at any time to change, revoke or cancel the terms or conditions under which permits may be issued.

It is further ordered, that this amendment shall become effective at 12:01 a. m., September 10, 1947; that a copy of this order be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901, 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL]

W P. BARTEL,  
Secretary.

[F. R. Doc. 47-8368; Filed, Sept. 11, 1947;  
8:52 a. m.]

[S. O. 769]

#### PART 95—CAR SERVICE

##### CARS TO BE STOPPED TO COMPLETE LOADING

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 8th day of September A. D. 1947.

It appearing, that there is a critical shortage of railroad freight cars; that shippers are appropriating such cars and shipping them almost empty to other points to complete loading with the actual lading; that such practice is wasteful and aggravates the car shortage, depleting and diminishing the use, control, supply, distribution and interchange of such cars; the Commission is of opinion that an emergency requiring immediate action exists in all sections of the country it is ordered that:

§ 95.769 *Freight cars to be stopped to complete loading.* (a) No common carrier by railroad subject to the Interstate Commerce Act shall accept for transportation, or transport or move, any railroad freight car or refrigerator car (whether ordered or appropriated without being ordered) which car is tendered to be forwarded to another point to be stopped off to complete the loading thereof, unless or until the shipper or consignor certifies on the bill of lading that the lading loaded in the car at the first loading point equals or exceeds fifteen percent (15%) of the marked capacity of that car.

(b) *Application.* The provisions of this section shall apply to intrastate and foreign commerce as well as interstate commerce.

(c) *Regulations suspended; announcement required.* The operation of all rules and regulations insofar as they conflict with the provisions of this section is hereby suspended and each railroad subject to this section, or its agent, shall publish, file, and post a supplement to each of its tariffs affected hereby, in substantial accordance with the provisions of Rule 9 (k) of the Commission's Tariff Circular No. 20 (§ 141.9 (k) of this chapter) announcing such suspension.

(d) *Special and general permits.* The provisions of this section shall be subject to any special or general permits issued by the Director, Bureau of Service, Interstate Commerce Commission, Washington, D. C.

(e) *Effective date.* This section shall become effective at 12:01 a. m., September 15, 1947.

(f) *Expiration date.* This section shall expire at 11:59 p. m., April 15, 1948, unless otherwise modified, changed, suspended or annulled by order of this Commission.

It is further ordered, that a copy of this order and direction shall be served upon each State railroad regulatory body, and

upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901, 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL]

W P. BARTEL,  
Secretary.

[F. R. Doc. 47-8369; Filed, Sept. 11, 1947;  
8:52 a. m.]

### Chapter II—Office of Defense Transportation

#### PART 500—CONSERVATION OF RAIL EQUIPMENT

##### SHIPMENTS OF CRANBERRIES

CROSS REFERENCE: For an exception to the provisions of § 500.72 see Part 520 of this chapter, *infra*.

[General Permit ODT 18A, Rev. 20A]

#### PART 520—CONSERVATION OF RAIL EQUIP- MENT; EXCEPTIONS, PERMITS, AND SPEC- IAL DIRECTIONS

##### SHIPMENTS OF CRANBERRIES

Pursuant to Title III of the Second War Powers Act, 1942, as amended, Executive Order 8989, as amended, Executive Order 9729, and General Order ODT 18A, Revised, as amended, it is hereby ordered, that:

§ 520.518 *Shipments of cranberries.* Notwithstanding the restrictions contained in § 500.72 of General Order ODT 18A, Revised, as amended (11 F. R. 8229, 8829, 10616, 13320, 14172; 12 F. R. 1034, 2386) or Item 365 of Special Direction ODT 18A-2A, as amended (9 F. R. 118, 4247, 13008; 10 F. R. 2523, 3470, 14906; 11 F. R. 1358, 13793, 14114) any person may offer for transportation and any rail carrier may accept for transportation at point of origin, forward from point of origin, or load and forward from point of origin, any carload freight consisting of cranberries when:

(a) Such freight is packed in any type of container and the quantity loaded in each car is not less than 30,000 pounds; and

(b) The origin point of any such freight is in the States of Massachusetts or New Jersey and the destination point is any place in the forty-eight States or the District of Columbia, except in the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, or Vermont, or except any point or place in the Dominion of Canada; or

(c) The origin point is in the State of Wisconsin and the destination point is any place west of a line consisting of the eastern boundary of the State of Minnesota and the Mississippi River south to



New Orleans, Louisiana, and the quantity of such freight loaded in a refrigerator car is not less than 30,000 pounds.

This General Permit ODT 18A, Revised-20A shall become effective September 10, 1947, and shall expire at 12:59 o'clock p. m., December 31, 1947.

(54 Stat. 676, 55 Stat. 236, 56 Stat. 177, 58 Stat. 827, 59 Stat. 658, 60 Stat. 345, 61 Stat. 34, Public Law 188, 80th Congress; 50 U. S. C. App. Sup. 633, 645, 1152; E. O. 8989, December 18, 1941, 6 F. R. 6725, E. O. 9389, October 18, 1943, 8 F. R. 14183, E. O. 9729, May 23, 1946, 11 F. R. 5641)

Issued at Washington, D. C., this 9th day of September 1947.

J. M. JOHNSON,  
Director,

Office of Defense Transportation.  
[P. R. Doc. 47-8377; Filed, Sept. 11, 1947; 8:46 a. m.]

## PROPOSED RULE MAKING

### DEPARTMENT OF AGRICULTURE

#### Production and Marketing Administration

[P. & S. Docket No. 402]

MARKET AGENCIES AT UNION STOCKYARDS,  
CHICAGO, ILL.

#### NOTICE OF PROPOSED PETITION FOR MODIFICATION OF TEMPORARY RATES

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.) the Secretary of Agriculture issued an order on July 28, 1947 continuing in effect the provisions of the order of August 1, 1946 (5 A. D. 592) as modified by the order of October 11, 1946 (5 A. D. 748) which orders provide for certain rates and charges for the respondent market agencies, for a period ending October 2, 1947.

On August 22, 1947, the respondents filed a petition requesting that they be authorized to file schedules of rates corresponding to the rate schedule which is attached to the petition and which is set out below:

#### C. L. S. EX. TARIFF No. 8

Cancels Tariff No. 7 and Supplements Thereto  
THE CHICAGO LIVESTOCK EXCHANGE

#### Schedule of charges for

#### SELLING AND BUYING LIVE STOCK

UNION STOCK YARDS, CHICAGO, ILLINOIS

Issued Aug. 18th, 1947 Effective -----

Filed with the Packers and Stockyards Division, Livestock Branch, Production and Marketing Administration, United States Department of Agriculture,

By

The Chicago Livestock Exchange, for and on Behalf of Affiliated Market Agencies

R. A. WALTER, President H. R. PARK, Agent

#### SECTION A—DEFINITIONS

##### Item No.

- A-1 A Consignment, for the purpose of assessing selling charges, is all the livestock of one species belonging to one owner, delivered to one market agency to be offered for sale during the trading hours of one day.
- A-2 A Consignment, for the purpose of assessing buying charges, is all the livestock of one species bought at any time but shipped or delivered to one person on one market day.
- A-3 A Draft is all those animals in one consignment weighed as a single sales or purchase classification.
- A-4 A Person is an individual, a partnership, a corporation, and/or association of any such acting as a unit.
- A-5 Calves are animals of the bovine species, weighed in drafts, the average weight of the animals in which is 400 pounds or under.

##### Item No.

- A-6 Cattle are animals of the bovine species weighed in drafts, the average weight of the animals in which is more than 400 pounds.
- A-7 Bulls are uncastrated male animals of the bovine species, weighed in drafts, the average weight of the animals in which is more than 400 pounds.
- A-8 Cattle, Calves and Bulls to be considered as of different species.
- A-9 Hogs are all swine irrespective of weight.

#### SECTION D—SELLING CHARGES

- B-1 Calves:  
Consignments on one head and one head only (A) 60 cents per head.  
Consignments of more than one head:  
First 15 head in each consignment (A) 45 cents per head.  
Each head over 15 head in each consignment (A) 35 cents per head.
- B-2 Calves, by Rail, Maximum Charge (A)  
In no instance shall the charge for selling a consignment of calves arriving by rail exceed \$30.00 for each single deck car and \$45.00 for each double deck car, plus extra service charges provided in Section E.
- B-3 Calves, by Other Than Rail, Maximum Charge (A)  
In no instance shall the charge for selling a consignment of calves arriving other than by rail exceed \$30.00 for each 100 calves or less, plus extra service charges provided in Section E.
- B-4 Cattle (A)  
Consignments of one head and one head only (A) \$1.15 per head.  
Consignments of more than one head:  
First 15 head in each consignment (A) 95 cents per head.  
Next 15 head in each consignment (A) 90 cents per head.  
Each head over 30 head in each consignment (A) 85 cents per head.
- B-5 Cattle, by Rail, Maximum Charge (A)  
In no instance shall the charge for selling a consignment of cattle arriving by rail exceed \$32.50 for each car, plus extra service charges provided in Section E.
- B-6 Cattle, by Other Than Rail, Maximum Charge (A)  
In no instance shall the charge for selling a consignment of cattle arriving other than by rail exceed the aggregate of \$32.50 for the first 24,400 pounds, plus 12 cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.
- B-7 Cattle and Calves by Rail, Maximum Charge (A)  
In no instance shall the charge for selling a carload of cattle and calves arriving by rail, belonging to one owner, delivered to one market agency to be offered for sale during the trading hours of one day, exceed \$32.50 for each car, plus extra service charges provided in Section E.

(A) Advance.

B-8 Cattle and Calves, by Other Than Rail, Maximum Charge (A) -

In no instance shall the charge for selling a shipment of cattle and calves arriving other than by rail, belonging to one owner, delivered to one market agency, to be offered for sale during the trading hours of one day exceed the aggregate of \$32.50 for the first 24,400 pounds or less, plus 12 cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.

B-9 Bulls (A)

Consignments of one head and one head only (A) \$1.30 cents per head.

Consignments of more than one head:

First 15 head in each consignment (A) \$1.00 per head.

Each head over 15 head in each consignment (A) 90 cents per head.

B-10 Hogs;

Consignments of one head and one head only:

Each head weighing 250 pounds or over (A) 60 cents per head.

Each head weighing under 250 pounds (A) 45 cents per head.

Consignments of more than one head:

First 10 head in consignment (A) 35 cents per head.

Next 15 head in each consignment (A) 30 cents per head.

Each head over 25 head in each consignment (A) 25 cents per head.

B-11 Hogs, by Rail, Maximum Charge (A) -

In no instance shall the charge for selling a consignment of hogs arriving by rail exceed \$25.00 for each single deck car, and \$35.00 for each double deck car, plus extra service charges provided in Section E.

B-12 Hogs, by Other Than Rail, Maximum Charge (A)

In no instance shall the charge for selling a consignment of hogs arriving other than by rail exceed the aggregate of \$25.00 for the first 18,000 pounds, plus 12 cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.

B-13 Sheep or Goats:

Consignments of one head and one head only (A) 50 cents per head.

Consignments of more than one head:

First 10 head in each 250 head (A) 30 cents per head.

The next 50 head in each 250 head (A) 20 cents per head.

The next 60 head in each 250 head (A) 8 cents per head.

The next 130 head in each 250 head (A) 4 cents per head.

B-14 Sheep or Goats, by Rail, Maximum Charge (A) -

In no instance shall the charge for selling a consignment of sheep or goats arriving by rail exceed \$16.00 for each single deck car and \$22.00 for each double deck car, plus extra service charges provided in Section E.

**B-15 Mixed Cars by Rail, Maximum Charge (A)**

In no instance shall the charge for selling a carload of livestock containing two or more species, belonging to one owner, delivered to one market agency, to be offered for sale during the trading hours of one day exceed \$35.00 for each single deck car and \$45.00 for each double deck car, plus extra service charges provided in Section E.

**SECTION C—BUYING CHARGES (A)**

**C-1** The rates for buying livestock shall be the same as the rates shown in Section B for selling the same livestock.

**SECTION D—BUYING SERVICE CHARGES**

**D-1** When feeder livestock bought by the purchaser himself is paid for, billed out, or any assistance rendered by a member of The Chicago Live Stock Exchange, or his employee or employees, the transaction shall be deemed a service rendered and a charge equivalent to 50% of the regular buying charge assessed.

**D-2** When slaughter live stock bought by purchaser himself is paid for, billed out, or any assistance rendered by a member of The Chicago Live Stock Exchange, or his employee or employees the transaction shall be deemed a service rendered and the regular buying charge assessed.

**SECTION E—EXTRA SERVICE CHARGES**

The following extra service charges are applicable to each consignment, bought or sold and are in addition to the charges provided in Sections B, C, and F for selling or buying:

For each additional weight draft over 3 on account of sales or purchase classification (brought about by sorting and weighing for the best interests of the shipper) 25 cents.

For each additional check (except checks to truckers in payment for hauling charges), each additional account of sales, each proceeds deposit or bank credit over 1. 5 cents.

**SECTION F—RESALES (A)**

On livestock purchased on this market by registered traders or registered market agencies, and without having been removed from this market, resold for account of such purchaser, the commission shall be 80 cents per head on cattle, 40 cents per head on calves, 25 cents per head on hogs and 8 cents per head on sheep or goats, plus extra service charges provided in Section E.

**SECTION G—INTERNATIONAL LIVESTOCK EXPOSITION AND CHICAGO FEEDER CATTLE SHOW**

In addition to the regular charges the following service charges shall be made on all carlot entries of livestock exhibited in the International Livestock Exposition or in the Chicago Feeder Cattle Show:

For each carlot, entered and exhibited of:

- Fat cattle: \$25.00.
- Stocker and feeder cattle: \$10.00.
- Hogs: \$10.00.
- Sheep: \$10.00.

In addition there will be collected and paid to auctioneers, for auctioning livestock in either of said shows the following:

- Each carlot entry: \$3.00.
- Other than carlot entries:
- Cattle: \$1.00 per head.
- Sheep: 50 cents per head.
- Hogs: 50 cents per head.

(A carlot entry is a lot of not less than 15 fat cattle, or 20 feeder cattle, or 25 hogs, or 50 sheep.)

**SECTION H—LOCAL SALES FOR ACCOUNT OF OTHER AGENCIES**

On livestock arriving at this market for sale, members of this Exchange may sell the

same for one-half of the foregoing rates of commission when sold for account of members suspended by The Chicago Livestock Exchange who otherwise would be engaged in selling livestock for non-residents on commission; or for the account of other members of this Exchange in good standing, who are similarly engaged, provided that the foregoing shall not apply to, nor prevent members of this Exchange in good standing from entering into agreements with each other for the purpose of clearing each other's business transactions, or for the purpose of regularly selling each other's livestock, provided that in all instances, full rates are charged to the owner of such livestock.

**SECTION I—REACTORS AND SUSPECT CATTLE**

A charge of 15¢ per head will be made on all cattle tagged by the State of Illinois as Bang Reactors, or cattle tagged and sold subject to post mortem inspection.

**SECTION J—FIRE INSURANCE**

To defray the cost of fire insurance under Hartford Fire Insurance Company Policy No. 5628 the following charge will be made:

Single truck loads or odd lot consignments:

- ½ cent per head on cattle.
- ½ cent per head on calves.
- ½ cent per head on hogs.
- ½ cent per head on sheep.

Minimum charge of 1 cent and maximum charge of 7 cents per owner in any truck load.

Truck shipments of livestock as shown on the Stockyards Company records may disclose several truck loads of single ownership as one consignment. In such consignments of single ownership, 30 cattle, 75 calves, 75 hogs or 300 sheep shall constitute a carload and shall take a maximum of 7 cents per carload.

Excess number of head above carloads in such consignments shall pay additional premium at the above odd lot rate per head.

Arriving by truck containing 2 or more of the above classes of livestock shall be subject to a maximum deduction of 7 cents for each total weight of 20,000 pounds.

Carload consignments: 7 cents per car.

**NATIONAL LIVE STOCK AND MEAT BOARD**

For the purpose of increasing the consumption of meat and meat products, the members of The Chicago Live Stock Exchange; engaged in selling or buying livestock on commission, shall make the following deductions from the proceeds of all livestock sold by them for non-residents:

½ cent for each calf or hog if marketed in less than carlots until contribution reaches 25 cents.

½ cent for each lamb marketed in less than carlots until contribution reaches 25 cents.

1 cent for each head of cattle marketed in less than carlots until contribution reaches 25 cents.

25 cents per car for all livestock marketed in carlots.

Consignments arriving by truck shall be assessed the less than carlot rates with a maximum deduction of 25 cents for each 30 cattle, 75 calves, 75 hogs or 300 sheep.

A consignment arriving by truck containing 2 or more of the above classes of livestock shall be subject to a maximum deduction of 25 cents for each total weight of 20,000 pounds.

All livestock bought for slaughter shall be charged the above rates.

The money so collected shall be turned over monthly to the Secretary of the Exchange, who will remit it to the National Livestock and Meat Board.

If any customer objects to the payment of this sum, his wishes shall be respected and no charge made on his consignment.

The granting of the petition will provide additional revenue for the respondents.

It appears that public notice should be given of the filing of such petition in order that all interested persons may have an opportunity to be heard in the matter.

Now, therefore, notice is hereby given to the public and to all interested persons of the filing of such petition for a modification of temporary rates and charges.

All interested persons who desire to be heard upon the matter requested in said petition shall notify the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., within 15 days from the date of publication of this notice.

Copies hereof shall be served upon the respondents by registered mail or in person.

Done at Washington, D. C., this 8th day of September 1947.

[SEAL] H. E. REED,  
Director, Livestock Branch, Production and Marketing Administration.

[F. R. Doc. 47-8387; Filed, Sept. 11, 1947; 8:49 a. m.]

**[7 CFR, Part 51]**

**U. S. STANDARDS FOR RAW WHITE SPANISH PEANUT KERNELS, RAW RUNNER PEANUT KERNELS, FARMERS' STOCK RUNNER PEANUTS AND FARMERS' STOCK WHITE SPANISH PEANUTS.**

**NOTICE OF NON-ISSUANCE OF PROPOSED STANDARDS**

Notices of proposed rule making were published in the FEDERAL REGISTER issue of July 2, 1947, concerning the issuance of superseding U. S. Standards for (a) raw white spanish peanut kernels (12 F. R. 4270) (b) raw runner peanut kernels (12 F. R. 4271), (c) farmers' stock runner peanuts (12 F. R. 4271) and, (d) farmers' stock white spanish peanuts (12 F. R. 4272)

Each of the notices provided a period of 20 days within which interested persons could file with the Hearing Clerk written data, views or arguments for consideration in connection with the issuance of the proposed standards.

On the basis of all such written data, views and arguments filed with the Hearing Clerk, and all relevant matters presented pursuant to such notices, it has been concluded not to issue the proposed standards at this time.

It is determined, therefore, pursuant to the authority contained in the Agricultural Appropriation Act of 1948 (Pub. Law No. 266, approved July 30, 1947) that the U. S. Standards, as proposed in the aforementioned notices, will not be made effective at this time.

Done this 8th day of August 1947.

[SEAL] C. C. FARRINGTON,  
Acting Administrator, Production and Marketing Administration.

[F. R. Doc. 47-8367; Filed, Sept. 11, 1947; 8:52 a. m.]

**CIVIL AERONAUTICS BOARD**

[14 CFR, Parts 04b, 40-42, 611]

REVISION OF STANDARDS FOR DETERMINING WHEN ADDITIONAL FLIGHT CREW MEMBERS ARE REQUIRED ON AIR CARRIER AIRCRAFT

## NOTICE OF HEARING

Notice is hereby given pursuant to section 4 (a) of the Administrative Procedure Act that a public hearing will be held before the Civil Aeronautics Board on October 6, 1947, at 10:00 a. m., eastern standard time in Room 5042, Commerce Building, Washington, D. C., for the purpose of obtaining the views of interested persons on:

1. Whether, and under what circumstances and conditions, it is reasonable and will promote safety of flight in air

commerce to require a full-time certified flight engineer on four-engine air carrier aircraft.

2. Whether, and under what design conditions, it is reasonable and will promote safety of flight in air commerce to require that future air carrier aircraft be designed to provide for a flight engineer station (attention is invited to Civil Air Regulation Draft Release 47-6, dated May 20, 1947)

3. Whether, and under what circumstances and conditions, it is reasonable and will promote safety of flight in air commerce to require full-time certified flight radio operators in air carrier operations.

4. Whether, and under what circumstances and conditions, it is reasonable and will promote safety of flight in air commerce to require full-time certi-

fied flight navigators in air carrier operations.

Any rules or standards adopted by the Board in relation to the foregoing will be promulgated pursuant to Title VI of the Civil Aeronautics Act of 1938, as amended, and will affect Parts 04b, 40, 41, 42, and 61 of the Civil Air Regulations.

Any interested person may appear in person or by attorney and present his views orally and may submit such written statements or documents in support of his views as he may consider desirable.

Dated at Washington, D. C., September 5, 1947.

By the Civil Aeronautics Board.

[SEAL]

M. C. MULLIGAN,

Secretary.

[F. R. Doc. 47-8372; Filed, Sept. 11, 1947; 8:54 a. m.]

**NOTICES****DEPARTMENT OF THE INTERIOR****Bureau of Reclamation**

DESCHUTES IRRIGATION PROJECT, NORTH UNIT, OREGON

AMENDMENT OF ANNOUNCEMENT OF ANNUAL WATER RENTAL CHARGES NO. 2

JULY 25, 1947.

1. The Announcement of Annual Water Rental Charges dated April 4, 1947, is hereby amended by substituting the following paragraph in lieu of paragraph 3 of the Announcement:

3. *Charges and terms of payment.* The minimum water rental charge shall be \$2.00 per irrigable acre for each irrigable acre of the 40-acre legal subdivision for which water service is requested, payment of which will entitle the water user to one and one-half acre feet of water per irrigable acre, except that if a farm contains less than a 40-acre legal subdivision the minimum charge shall be based upon the irrigable area in the entire farm. However, for lands described in paragraph 2 (b) above, for which water will become available in 1947, the minimum charge shall be paid for each irrigable acre of land for which water service is requested. Additional water, if available, will be furnished during the 1947 irrigation season to the lands described in paragraphs 2 (a) and 2 (b) above at the rate of \$1.50 per acre foot, but not to exceed two and one-half acre feet will be furnished for each acre of land for which water service is requested under the arrangement. However, water in excess of two and one-half acre feet will be furnished during the 1947 irrigation season to the lands described in paragraphs 2 (a) and 2 (b) above under the following special conditions:

(a) The owner of land for which water in excess of two and one-half acre feet is desired, may enter into an agreement of transfer with a landowner who has paid the rental charges for the irrigable acreage of his land, and who will not

utilize on his land the full amount of the water covered by his payment, for delivery on the transferee's land of water in excess of the transferor's needs, in an amount which shall not exceed one acre-foot per irrigable acre of the land to which deliveries are made. In such case, payments already made will be retained by the District, but the transferee who receives deliveries in excess of two and one-half acre feet per irrigable acre shall be required to pay for deliveries of such water at the rate of \$0.50 per acre foot.

(b) The owner of land for which water in excess of two and one-half acre feet is desired, may enter into an agreement of transfer with a landowner who has not availed himself of the privilege of obtaining deliveries of two and one-half acre feet of water, for delivery on the transferee's land of water in an amount not in excess of two and one-half acre feet per irrigable acre of the transferor's land. In such case, the transferor shall pay in advance for such deliveries at the regular rates per acre foot and shall designate the landowner to whom delivery is to be made. The transferee shall also pay in advance of deliveries to his land a charge of \$0.50, per acre foot for such deliveries.

Under either of these arrangements, a landowner shall not receive water deliveries during the 1947 irrigation season in excess of three and one-half acre feet per irrigable acre, nor shall any landowner receive water deliveries in excess of two and one-half acre feet per irrigable acre of his land, except as the transferee of a landowner who receives less than two and one-half acre feet per irrigable acre of his land. In subsequent seasons when a larger acreage of District lands must be supplied with water, it is contemplated that deliveries of irrigation water probably cannot exceed two and one-half acre feet per irrigable acre for which water service is requested. All charges shall be payable by the District to the

United States in advance of the delivery of water.

(Act of June 17, 1902, 32 Stat. 383, as amended or supplemented)

R. J. NEWELL,

Regional Director.

[F. R. Doc. 47-8356; Filed, Sept. 11, 1947; 8:50 a. m.]

[No. 3-A]

GILA IRRIGATION PROJECT, ARIZONA

PUBLIC NOTICE OF ANNUAL WATER RENTAL CHARGE

AUGUST 13, 1947.

1. *Water rental.* Irrigation water will be furnished, when available and where the progress of construction will permit, upon a rental basis under approved applications for temporary water service during the balance of the calendar year 1947, and thereafter until further notice, to the private lands in the Yuma Mesa Division under pumping plant No. 1 described below:

GILA AND SALT RIVER MERIDIAN

T. 9 S., R. 23 W.,  
Sec. 9, NE $\frac{1}{4}$ NW $\frac{1}{4}$

T. 10 S., R. 23 W.,  
Sec. 16, NW $\frac{1}{4}$ NW $\frac{1}{4}$

2. *Charges and terms of payment.* Water rental charges shall be payable in advance of the delivery of water at rates as follows:

(a) For those above-described lands irrigated hereunder before July 1 of any year, the minimum charge shall be \$6.00 per acre for each acre of land for which water service is requested, payment of which will entitle the applicant to 8 acre-feet of water per acre. Additional water will be furnished at the rate of \$0.85 per acre-foot.

(b) For those above-described lands not irrigated hereunder before July 1 of any year but receiving water after that

date, there will be a charge of \$0.75 per acre-foot for the first 4 acre-feet of water ordered during that year and a charge of \$0.85 per acre-foot for all additional water ordered during that year.

3. Applications for temporary water service may be made by the landowner or by anyone who presents evidence satisfactory to the Superintendent of the Gila Project that he is the tenant or lessee of the land for which water is requested, or that he has been authorized by the owner to make a water rental application for such land.

4. Applications for temporary water service and the payments required by this notice will be received at the office of the Superintendent, Gila Project, Yuma, Arizona.

(Act of June 17, 1902, 32 Stat. 388, as amended or supplemented)

E. R. MORITZ,  
Regional Director

[F. R. Doc. 47-8357; Filed, Sept. 11, 1947;  
8:50 a. m.]

[Public Notice No. 59]

YUMA PROJECT, ARIZONA-CALIFORNIA VALLEY AND RESERVATION DIVISIONS

PUBLIC NOTICE OPENING PUBLIC LAND TO ENTRY AND ANNOUNCING AVAILABILITY OF WATER

1. *Public land for which water is available and for which entry may be made.* In pursuance of the act of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplementary thereto, it is hereby announced that water will be available on January 1, 1948, and thereafter, and that entry may be made in accordance with this notice, beginning at 2:00 p. m., September 9, 1947, for public lands in the Valley and Reservation Divisions of the Yuma Project, as shown on approved farm unit plats on file in the office of the Superintendent, Yuma Project, Bureau of Reclamation, Yuma, Arizona, and in the District Land Offices at Phoenix, Arizona, and Los Angeles, California. These lands are described as follows:

VALLEY DIVISION

GILA AND SALT RIVER BASE AND MERIDIAN, ARIZONA

Section	Farm unit	Description	Total irrigable acres	Order in which awarded
33	A	Township 8 South, Range 24 West		
		Lots 1 and 2.....	44.60	2
		Township 9 South, Range 24 West		
5	A	Lots 1, 2, 7, and 8; Sec. 4, Lot 5; Sec. 33 (T. 8 S., R. 24 W.), Lot 6.....	39.37	10
5	B	Lots 9 and 10; Sec. 8, Lot 5.....	31.37	3
18	A	Lots 2, 6, 7, and 8.....	48.64	21
18	B	Lot 10.....	36.70	4
18	E	Lots 6 and 11; Sec. 17, Lot 3; Sec. 20, Lots 3 and 4.....	63.90	24
19	A	Lots 5 and 8.....	72.80	26
19	B	Lots 11, 18, and 19.....	75.18	16
		Township 10 South, Range 25 West		
11	A	Lot 3.....	34.40	11
11	B	Lots 1 and 2.....	67.40	14
11	D	Lots 4; Sec. 12, Lot 19; Sec. 13, Lot 3; and Sec. 14, Lots 1 and 6.....	74.82	5
12	E	Lots 1, 10, and 11.....	47.35	18
12	F	Lot 12.....	36.97	28
12	G	Lot 13.....	36.91	13
12	H	Lots 14 and 15.....	51.90	20
12	J	Lots 16, 17, and 18.....	53.55	9
23	E	W $\frac{1}{2}$ SE $\frac{1}{4}$ .....	27.20	12
		Township 11 South, Range 25 West		
1	O	S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ and S $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ .....	70.00	1

RESERVATION DIVISION

SAN BERNARDINO MERIDIAN, CALIFORNIA

		Township 15 South, Range 23 East		
34	B	NE $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$ .....	75.00	25
34	T	Lot 1; Sec. 35, Lot 6A.....	23.00	6
35	F	Lot 13.....	41.00	17
		Township 16 South, Range 23 East		
3	O	Lot 7.....	42.00	8
3	P	Lot 10.....	41.00	23
8	L	S $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ .....	30.00	7
9	R	NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ and S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ .....	35.00	15
10	Q	Lots 4, 10, 12, and 13.....	78.12	27
10	R	Lots 7 and 8.....	82.00	22
16	F	Lots 7 and 8; Sec. 16, Lot 7.....	73.00	19

2. *Limit of acreage for which entry may be made or water secured.* The area of public land constituting each farm unit represents the acreage which, in the opinion of the Secretary of the Interior, may be reasonably required for the support of a family upon such land, and is fixed at the amount shown upon the farm unit plats referred to above.

3. *Preference rights of veterans.*—(a) *Nature of preference.* Pursuant to the

provisions of the act of September 27, 1944 (58 Stat. 747), as amended by the acts of June 25, 1946 (Public Law 440, 79th Congress, 2d Session), and May 31, 1947 (Public Law 82, 80th Congress, 1st Session), for a period of 90 days from the opening of these lands to entry, or until December 8, 1947, the lands described in paragraph 1 above will be opened to entry to persons who at the time of making

application fall within one of the following classes:

(1) Persons, including persons under 21 years of age, who have served in the Army, Navy, Marine Corps, or Coast Guard of the United States for a period of at least 90 days at any time on or after September 16, 1940, and prior to the termination of the present war, and are honorably discharged therefrom.

(2) Persons, including persons under 21 years of age, who have served in said Army, Navy, Marine Corps or Coast Guard during such period, regardless of length of service, and are discharged on account of wounds received or disability incurred during such period in the line of duty, or, subsequent to a regular discharge, are furnished hospitalization or awarded compensation by the government on account of such wounds or disability.

(3) The spouse of any person in either of the above classes (1) and (2), provided such spouse has the consent of such person to exercise his or her preference right under said act.

(4) The surviving spouse of any person in either of the above classes (1) and (2) or in the case of the death or marriage of such spouse, the minor child or children of such person by a guardian duly appointed and officially accredited at the Department of the Interior.

(5) The surviving spouse of any person whose death has resulted from wounds received or disability incurred in line of duty while serving in said Army, Navy, Marine Corps or Coast Guard during the above-mentioned period, or in the case of the death or marriage of such spouse, the minor child or children of such person by a guardian duly appointed and officially accredited at the Department of the Interior.

*Provided, however,* That persons claiming such preferences must be qualified to make entry under the homestead laws and also possess the qualifications as to industry, experience, character, capital, and physical fitness required of all entrymen and entrywomen under this notice.

(b) *Definition of honorable discharge.* An "honorable discharge within the meaning of the act of September 27, 1944, as amended, shall mean:

(1) Separation of the veteran from the service by means of an honorable discharge or a discharge under honorable conditions.

(2) Transfer of the veteran with honorable service from such service to a reserve or retired status prior to the termination of the war, or

(3) Ending of the period of such veteran's war service by reason of the termination of the war, even though the veteran remains in the military or naval service of the United States.

(c) *Submission of proof of veterans' status.* All applicants for farm units who claim veterans' preference must attach to their applications a photostatic, certified, or authenticated copy of an official document of the respective branch of the service involved which clearly indicates an honorable separation or discharge or transfer to a reserve or retired status or which constitutes evidence of other facts on which the claim for prefer-

ence is based. Where the preference is claimed by the surviving spouse, or on behalf of the minor child or children, of a deceased veteran, proof of such relationship and of his death must be attached to the application. Where the preference is claimed by the spouse of a living veteran, proof of such relationship, the written consent of such veteran, and proof of his military service as required above must be attached to the application.

4. *Qualifications required by the Reclamation Law.* Pursuant to the provisions of subsection C, section 4, of the act of December 5, 1924 (43 Stat. 702, 43 U. S. C. 433) the following are established as minimum qualifications which, in the opinion of the local examining board, are necessary to insure the success of entrymen or entrywomen on reclamation farm units included under this notice. Applicants must meet these qualifications, as determined by the examining board, in order to be considered for entry. Failure to meet them in any single respect will be sufficient cause for rejection of an application. No credit will be given for qualifications in excess of the minimum required. The minimum qualifications are as follows:

(a) *Character and industry.* Each entryman or entrywoman must be possessed of honesty, temperate habits, thrift, industry, seriousness of purpose, record of good moral conduct, and a bona fide intent to engage in farming as an occupation. Persons named as references in paragraph 17 of the farm application blank should be responsible individuals, not relatives, who are personally acquainted with the applicant and are willing and able to disclose full information relative to the character and industry of the applicant. These references are required in addition to the statements regarding farm experience to be provided as outlined under 4 (c) below.

(b) *Health.* Each entryman or entrywoman must be in such physical condition as will enable him or her to engage in normal farm labor. Any person who is physically handicapped or afflicted with any condition which makes such ability questionable must attach to his or her application the detailed statement of an examining physician which defines the limitation upon such ability and its causes.

(c) *Farm experience.* Each entryman or entrywoman must have had at least two years' full-time farm experience acquired after the age of 15 years. Two years of study in agricultural courses in an accredited agricultural college or two years of responsible technical work in agriculture which, in the opinion of the examining board, may contribute toward knowledge of the successful operation of a farm may be substituted for one year of farm experience. No more than one year's experience may be credited from such sources. A farm youth over the age of 15 who actually resided and worked on a farm while attending school may credit such time as actual farm experience. All farm experience must have been obtained since September 1932. No advantage will accrue from farming experience on irrigated land.

Applicants must furnish three written statements, each signed by a Vocational Agriculture teacher, county agent, county Farmers Home Administration supervisor, Production and Marketing Administration chairman, an officer of any local farm organization or some other reliable person who has personal knowledge of the applicant's farm experience or has verified it to his satisfaction. Women applicants should describe fully the farm activities in which they have participated and the relation of agricultural courses they have taken to farm operation and management.

(d) *Capital.* Each entryman or entrywoman must possess at least \$1,000 in cash, and an additional \$1,000 in operating capital or in equivalent assets, such as livestock, farm machinery, and equipment, which are unencumbered and which in the opinion of the board will be needed for farming operations in this area. United States savings bonds, life insurance policies, and similar assets should be listed at present cash value only.

(e) *Restriction regarding lands presently owned on any Federal reclamation projects.* In addition, in order to qualify for entry on project lands, applicants must not hold or own, within any Federal reclamation project, irrigable land for which construction charges payable to the United States have not been fully paid. Proofs of conformity with this requirement need not be furnished, but a check of project lands will be made to determine eligibility of applicants before awards of farm units are made.

5. *Principal qualifications required by homestead laws.* The homestead laws require that an entryman or entrywoman:

(a) Must be a citizen of the United States or have declared an intention to become a citizen of the United States.

(b) Must not have exhausted the right to make homestead entry on public land.

(c) Must not own more than 160 acres of land in the United States.

(d) Entrywomen who are married must be heads of families; this requirement of the homestead law was not affected by the act of September 27, 1944 (58 Stat. 747) as amended. Entrymen and unmarried entrywomen must be 21 years of age or the head of a family, except that such minimum age requirement is not applicable to entrymen or unmarried entrywomen who have served in the Army, Navy, Marine Corps or Coast Guard of the United States for a period of at least ninety days at any time on or after September 16, 1940, and prior to the termination of the present war and are honorably discharged. Any applicant who is required to be the head of a family must submit proof of such status with his or her application. Complete information concerning qualifications for homesteading may be obtained from the District Land Office, Federal Building, Los Angeles 12, California; District Land Office, Federal Building, Phoenix, Arizona, or Bureau of Land Management, Washington 25, D. C.

6. *When, where, and how to apply for a farm unit—(a) Application blanks.* Any person desiring to acquire one of the

public land units described in this notice must fill out the attached farm application blank. Additional application blanks may be obtained from the Superintendent, Gila Project, Bureau of Reclamation, Yuma, Arizona (the Superintendent of the Gila Project is serving as secretary of the examining board which will handle the land opening on the Yuma Project). Application blanks may be obtained also from the Regional Director, Region 3, Bureau of Reclamation, Boulder City, Nevada, or the Commissioner, Bureau of Reclamation, Department of the Interior, Washington 25, D. C.

(b) *Filing of application and proofs.* An application for a farm unit listed in this notice must be filed with the Superintendent, Gila Project, Bureau of Reclamation, Yuma, Arizona, in person or by mail. No advantage will accrue to an applicant who presents his or her application in person. Such an application must be accompanied by:

(1) Proof of veteran's status, if veterans' preference is claimed; see above, paragraph 3 (c).

(2) Statement of examining physician, in case of disability; see above, paragraph 4 (b).

(3) Proof of farm experience; see above, paragraph 4 (c).

(4) Proof of status as head of a family, if a married woman or otherwise required to be head of a family; see above, paragraph 5 (d).

(c) *Priority of applications.* All applications filed for the public land farm units listed in this notice will be classified for priority purposes as follows and considered in the following order:

(1) *First Priority Group.* All applications filed prior to 2:00 p. m., December 8, 1947, which are accompanied by proof sufficient in the opinion of the board to establish eligibility for veterans' preference. All such applications will be treated as simultaneously filed.

(2) *Second Priority Group.* All applications filed prior to 2:00 p. m., December 8, 1947, which are not accompanied by proof sufficient in the opinion of the board to establish eligibility for veterans' preference. All such applications will be treated as simultaneously filed.

(3) *Final Priority Group.* All applications filed after 2:00 p. m., December 8, 1947, whether or not accompanied by proof relative to veterans' preference. Such applications will be considered in the order in which they are filed, if any farm units become available for assignment to applicants within this group.

7. *Selection of qualified applicants—(a) Examining board.* An examining board of five members, including the Superintendent, Gila Project, who will act as secretary of the board, has been approved by the Commissioner of Reclamation to consider the fitness of each applicant to undertake the development and operation of a farm on the Yuma Project. Careful investigations will be made to verify the statements and representations made by applicants in order to determine their qualifications as prescribed in this notice.

(b) *Basis of examination.* The examining board will determine the eligi-



bility for the award of a reclamation farm unit under subsection 4C of the act of December 5, 1924. As stated above in paragraph 4, applicants will be judged on the basis of character, industry, farming experience, and capital. No applicant will be considered eligible who does not qualify in all respects, or who does not, in the opinion of the board, possess the health and vigor to engage in farm work. Any falsification or fraudulent misrepresentation shall constitute ground for the disqualification of the applicant, the rejection of his application, the cancellation of his award, and/or the cancellation of his entry.

(c) *Procedure*—(1) *Preliminary examination*. If an applicant fails to make a prima facie case, that is, if an examination of his application discloses that he is not qualified in respect to the requirements prescribed herein, the application shall be rejected and the applicant notified by the board of such rejection and the reasons therefore, and of his right to appeal in writing to the Regional Director, Region 3, Bureau of Reclamation, Boulder City, Nevada. Such written appeals must be filed in the office of the Superintendent, Gila Project, Bureau of Reclamation, Yuma, Arizona, within 15 days from the receipt of notification. They will then be forwarded promptly to the Regional Director. If an appeal is decided by the Regional Director in favor of the applicant, the application will be referred to the board of examiners for inclusion in the drawing. All decisions on appeals will be based exclusively on information obtained prior to rejection of the application.

(2) *Selection of applicants*. After the expiration of the appeal periods fixed by the above-mentioned notices, and in the absence of any pending appeals, the examining board shall conduct a public drawing from the names of the remaining applicants in the First Priority Group, as defined in paragraph 6 (c). Qualified applicants need not be present at the drawing in order to participate therein. A total of 56 names (twice the number of public land farm units to be awarded) shall be drawn and numbered consecutively. The applicants whose names are so drawn shall be closely investigated by the board to determine the authenticity and reliability of the information and proofs offered by them. This investigation may include a personal appearance before the board, if the board determines that this is necessary—should any applicant fail to comply with the board's request for a personal appearance, such failure shall constitute ground for rejection of his application. Any applicant, whose application is rejected by the board as a result of such investigation, shall be given notice of such rejection, setting forth the reasons therefor and advising the applicant of his right to appeal in writing to the Regional Director. The provisions of paragraph 7 (c) (1) relative to appeals shall be applicable to any such appeal, except that where any such appeal is decided by the Regional Director in favor of the applicant such applicant shall retain the number assigned to him at the time of the drawing.

After the expiration of all appeal periods fixed by notices given as above provided, and in the absence of any pending appeals, those applicants whose applications remain unrejected and who hold the 28 lowest numbers assigned at the drawing, exclusive of those numbers assigned to rejected applications, shall be selected by the examining board as the successful applicants. The balance of the 56 applicants who have been closely investigated and whose applications remain unrejected shall be selected by the board as alternates. The board shall thereupon notify each successful applicant and each alternate of his selection and of his respective standing. The board shall thereupon notify all other remaining applicants that farm units will not become available to them, except pursuant to subparagraph 7 (c) (3) (b) below.

(3) *Awarding of farm units*. (a) Upon the completion of any action which may become necessary by reason of any notices given, the examining board shall award farm units in accordance with numbers assigned such units by lot to the above-mentioned 28 successful applicants in the order in which their names are drawn without regard to preferences indicated by applicants for specific farm units or otherwise. Each applicant to whom a farm unit has been awarded will be notified of that fact by the board. Each such applicant shall have no right of entry for any other farm unit. If any such applicants fail to make application for homestead entry in conformity with the provisions of paragraph 9 below or to comply with the other applicable requirements set out in said paragraph, the farm units awarded to them shall be awarded to alternates in the order in which their names were drawn and subject to the same conditions and requirements as the original awards. The alternate with the lowest number as assigned under the provisions of paragraph 7 (c) (2) shall take the place of the lowest numbered applicant among the first 28 who fails to make application for homestead entry or disqualifies by failure to comply with the other requirements set forth in paragraph 9 below and the alternate with the second lowest number shall take the place of the second lowest numbered applicant who fails to make application for homestead entry or comply with the other requirements. The same procedure shall continue to apply until all farm units have been awarded.

(b) The foregoing procedure shall continue until all farm units are finally disposed of to unrejected applicants in the First Priority Group whose names have been drawn and whose applications have been closely investigated as provided herein. If units still remain to be awarded after all applications in the First Priority Group have been processed, the foregoing procedure shall be applied in the processing of applications in the Second Priority Group. If units still remain to be awarded after all applications in the Second Priority Group have been processed, the foregoing procedure shall be applied in the processing of applications in the Third Priority Group, except that the board shall consider such appli-

cations in the order in which they are filed in lieu of conducting a drawing with reference thereto.

(4) *Delivery of notices*. All notices given to applicants pursuant to the provisions of paragraph 7 (c) and subparagraphs thereunder shall be in writing and shall be delivered to the respective applicants personally or sent to them by registered mail with return receipt requested.

8. *Warning against unlawful settlement*. No person shall be permitted to gam or exercise any right under any settlement or occupation of any of the public lands covered by this notice except under the terms and conditions prescribed by this notice.

9. *Payment of charges and filing of homestead applications*—(a) *Valley Division*. With each notification of award of a farm unit on the Valley Division, the applicant to whom award is made shall be notified that, in order to qualify him to file a homestead application with the appropriate District Land Office, he must, within 15 days from the receipt of such notification, (i) execute and file in the office of the Superintendent, Yuma Project, Bureau of Reclamation, Yuma, Arizona, a water-right application covering the payment of the charges mentioned in paragraph 10 (a) below; (ii) execute and file with the Yuma County Water Users' Association an application for membership and for the issuance of stock therein; and (iii) remit to the office of said Association in Yuma, Arizona, an initial charge of \$5.93 for each irrigable acre of land in such unit. Upon receipt by the Superintendent of the Yuma Project of written advice from such Association that the applicant has complied with the requirements contained in such notification within said 15-day period, the secretary of the examining board shall furnish to such applicant by registered mail, unless delivery is made in person, a certificate stating that the applicant's qualifications to enter public lands as required by subsection 4C of the act of December 5, 1924, have been passed upon and approved by the board. Such certificate must be attached by the applicant to his or her homestead application when the application is filed with the District Land Office, Bureau of Land Management, Federal Building, Phoenix, Arizona. Such homestead application must be executed in person in the District Land Office in which the lands are situated or in the county, parish or land district in which the lands are located, or before a qualified officer who resides nearest or most accessibly to the land, although he may reside outside the county, parish, or land district in which the lands are situated. The executed application must be filed within 30 days from the date of receipt of such certificate. Failure to comply with the foregoing requirements within the periods specified herein shall disqualify the applicant and result in the cancellation of his award.

(b) *Reservation Division*. With each notification of award of a farm unit on the Reservation Division, the applicant to whom award is made shall be notified that, in order to qualify him to file a homestead application with the appro-



private District Land Office, he must, within 15 days from the receipt of such notification, (i) execute and file in the office of the Superintendent, Yuma Project, Bureau of Reclamation, Yuma, Arizona, a water-right application covering the payment of the charges mentioned in paragraph 10 (b) below, and (ii) remit to the office of said Superintendent an initial charge of \$7.80 for each irrigable acre of land in said unit. Upon receipt by the Project Superintendent of payment of such initial charge from the applicant within said 15-day period, the secretary of the examining board shall furnish to such applicant by registered mail, unless delivery is made in person, a certificate stating that the applicant's qualifications to enter public lands, as required by subsection 4C of the act of December 5, 1924, have been passed upon and approved by the board. Such certificate must be attached by the applicant to his or her homestead application when the application is filed with the District Land Office, Bureau of Land Management, Federal Building, Los Angeles 12, California. Such homestead application must be executed in person in the District Land Office in which the lands are situated or in the county, parish, or land district in which the lands are located, or before a qualified officer who resides nearest or most accessibly to the land, although he may reside outside the county, parish, or land district in which the lands are situated. The executed application must be filed within 30 days from the date of receipt of such certificate. At the time of making such homestead application, the applicant must pay to said District Land Office five per centum (5%) of the Indian charge, mentioned in paragraph 10 (b) below. Failure to comply with the foregoing requirements within the periods specified herein shall disqualify the applicant and result in the cancellation of his award.

10. *Construction and other charges—(a) Valley Division.* The lands in the Valley Division covered by this notice are affected by contracts between the United States of America and Yuma County Water Users' Association, dated May 31, 1906, and February 5, 1931, respectively, copies of which are available for inspection at the office of the Superintendent, Yuma Project, Bureau of Reclamation, Yuma, Arizona. Under said contracts, the Association has undertaken the collection, and guaranteed to the United States the payment of the following charges which are applicable to each irrigable acre of land on the Valley Division: a construction charge of \$85.00 and operation and maintenance charges as determined by the Secretary of the Interior. Such construction charge shall become due and payable to the United States as follows: \$2.93, by inclusion in the initial charge mentioned in paragraph 9 (a) above; \$2.83 on December 1, 1948, and \$2.83 on December 1 of each year thereafter to and including December 1, 1976. The estimated annual cost, as determined by the Secretary of the Interior, of operating and maintaining irrigation and drainage works and other appurtenant structures for the benefit of lands in the Valley Division,

for each calendar year is payable by the Association to the United States semi-annually in advance, the first half thereof being due and payable on or before January 1 of each year and the second half thereof on or before July 1 of each year. Shareholders of the Association are subject to assessments levied by the Association to provide revenues to meet its obligations and expenses. The initial charge mentioned in paragraph 9 (a) above includes \$3.00, constituting the per-acre assessment levied by the Association to meet the second half of the 1947 operation and maintenance charge; this amount will be credited against assessments to be levied by the Association against the entryman with reference to the operation and maintenance charge for the calendar year 1948, provided his entry then remains intact and in good standing.

(b) *Reservation Division.* The lands in the Reservation Division are subject to the following charges: A construction charge of \$76.00 per irrigable acre, which shall become due and payable as follows: \$3.80, by inclusion in the initial charge mentioned in paragraph 9 (b), above; \$3.80 on December 1, 1952; a similar amount on December 1 of each year thereafter to and including December 1, 1956; \$5.32 on December 1, 1957, and a similar amount on December 1 of each year thereafter to and including December 1, 1966; an Indian charge of \$10.00 for each acre entered, to be paid for the benefit of the Indian allottees in accordance with the provisions of section 25 of the act of April 21, 1904 (33 Stat. 189, 224) which shall become due and payable as follows: an amount constituting five per centum (5%) thereof at the time of making homestead application as provided in paragraph 9 (b) above, a similar amount on December 1, 1952, and on December 1 of each year thereafter to and including December 1, 1956, an amount constituting seven per centum (7%) thereof on December 1, 1957, and a similar amount on December 1 of each year thereafter to and including December 1, 1966, and, until further notice, an operation and maintenance charge payable on March 1 of each year, covering the annual cost of operating and maintaining irrigation and drainage works and other appurtenant structures for the benefit of lands in the Reservation Division during the preceding calendar year. The initial charge mentioned in paragraph 9 (b) above includes \$4.00, which constitutes the minimum operation and maintenance charge per irrigable acre heretofore fixed for the calendar year 1947 and thereafter until further notice as to lands now under public notice. Said amount will be credited against the operation and maintenance charge which will be payable by the entryman on March 1, 1949, provided his entry then remains intact and in good standing.

11. *Existing leases.* Certain of the farm units described in paragraph 1 are subject to leases expiring December 31, 1947, but allowing specified periods thereafter, usually 15 days, for the removal by lessees of certain improvements. Entries made on such units pursuant to this notice shall be subject to the provisions contained in the applicable leases.

All but two of these leases contain provisions authorizing specified, limited uses of the lands by entrymen prior to December 31, 1947. Copies of the leases are available for inspection at the office of the Superintendent, Yuma Project, Bureau of Reclamation, Yuma, Arizona.

12. *Reservation of rights-of-way for county, state, and Federal highways and access roads.* Rights-of-way are reserved for county, state and Federal highways and access roads to the farm units shown on said plat along section lines and other lines shown in red on the farm plats.

13. *Reservation of rights-of-way for public-owned utilities.* Rights-of-way are reserved for government-owned telephone, electric transmission, water and sewer lines, and water treating and pumping plants, as now constructed, and the Secretary of the Interior reserves the right to locate such other government-owned facilities over and across the farm units above described as hereafter, in his opinion, may be necessary for the proper construction, operation, and maintenance of the said project.

14. *Effect of relinquishment.* In the event that any entry of public land made hereunder shall be relinquished at any time prior to actual residence upon the land by the entryman for not less than one year, the land so relinquished shall not be subject to entry for a period of sixty days after the filing and notation of the relinquishment in the District Land Office. Applications conforming to the requirements of this public notice may be filed for a period of 15 days after the expiration of said sixty-day period. Such applications will be considered and processed and awards made pursuant to the provisions of paragraphs 7 and 9 of this public notice.

15. *Waiver of mineral rights.* All homestead entries for the above-described farm units will be subject to the laws of the United States governing mineral land, and all homestead applicants under this notice must waive the right to the mineral content of the land, if required to do so by the Bureau of Land Management; otherwise the homestead applications will be rejected or the homestead entry or entries canceled.

MARTIN G. WHITE,  
Acting Assistant Secretary  
of the Interior.

AUGUST 22, 1947.

[F. R. Doc. 47-8358; Filed, Sept. 11, 1947;  
8:50 a. m.]

#### PROVO RIVER PROJECT, UTAH

##### FIRST FORM RECLAMATION WITHDRAWAL

AUGUST 8, 1947.

Pursuant to the authority delegated by Departmental Order No. 2238 of August 16, 1946 (43 CFR 4.410) I hereby withdraw the following described public land from entry under the first form of withdrawal, as provided by section 3 of the act of June 17, 1902 (32 Stat. 388)

PROVO RIVER PROJECT  
SALT LAKE MERIDIAN, UTAH

T. 2 S., R. 1 E.,  
Sec. 14, W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ .

The above area aggregates 20 acres.

J. G. WILL,  
*Acting Commissioner.*

I concur. The records of the Bureau of Land Management and of the District Land Office will be noted accordingly.

FRED W. JOHNSON,  
*Director*

AUGUST 19, 1947.

Notice is hereby given that for a period of 30 days from the date of publication of this notice, persons having cause to object to the terms of the above order of August 8, 1947, withdrawing certain public lands in the State of Utah, for use in connection with the Provo River Project, Utah, may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C.

In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent and extent. Should any objection be filed, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

J. G. WILL,  
*Acting Commissioner*  
*Bureau of Reclamation.*

[F. R. Doc. 47-8359; Filed, Sept. 11, 1947;  
8:50 a. m.]

## Geological Survey

WASHINGTON; SNAKE RIVER

POWER SITE CLASSIFICATION NO. 387

SEPTEMBER 5, 1947.

Pursuant to authority vested in me by the act of March 3, 1879 (20 Stat. 394; 43 U. S. C. 31) and by Departmental Order No. 2333 of the acting Secretary of the Interior dated June 10, 1947 (12 F. R. 4025) the following described land is hereby classified as power sites insofar as title thereto remains in the United States and subject to valid existing rights; and this classification shall have full force and effect under the provisions of sec. 24 of the act of June 10, 1920, as amended by sec. 211 of the act of August 26, 1935 (16 U. S. C., Sup. 818)

WILLAMETTE MERIDIAN, WASHINGTON

T. 9 N., R. 32 E.,  
Sec. 2, SE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
Sec. 4, lots 9, 10, and 11.  
T. 11 N., R. 33 E.,  
Sec. 12, lot 7.  
T. 13 N., R. 34 E.,  
Sec. 24, lots 1, and 2.

T. 13 N., R. 37 E.,  
Sec. 32, lot 2.  
T. 12 N., R. 38 E.,  
Sec. 6, lot 5.  
T. 13 N., R. 38 E.,  
Sec. 24, lots 1, and 2, NE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
Sec. 32, lots 1, and 2.  
T. 14 N., R. 41 E.,  
Sec. 26, lot 2.  
T. 13 N., R. 43 E.,  
Sec. 13, lot 1;  
Sec. 25, lot 3, NE $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 14 N., R. 43 E.,  
Sec. 32, lots 3 and 5.  
T. 13 N., R. 44 E.,  
Sec. 33, lot 5.

The areas described aggregate 597.75-acres.

JULIAN D. SEARS,  
*Acting Director.*

[F. R. Doc. 47-8354; Filed, Sept. 11, 1947;  
8:50 a. m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 8167]

WOODWARD BROADCASTING Co.

ORDER CONTINUING HEARING

In re application of Woodward Broadcasting Company, Detroit, Michigan, Docket No. 8167, File No. BP-5827; for construction permit.

The Commission having under consideration a petition filed August 11, 1947 by Woodward Broadcasting Company, Detroit, Michigan requesting a continuance in the hearing upon its application for construction permit (File No. BP-5827; Docket No. 8167) which is presently scheduled for August 20, 1947;

It is ordered, This 15th day of August 1947, that the instant petition be, and it is hereby, granted; and the said hearing upon the above-entitled application be, and it is hereby, continued to 10:00 o'clock a. m., Monday, October 20, 1947, at Washington, D. C.

By the Commission.

[SEAL] T. J. SLOWIE,  
*Secretary.*

[F. R. Doc. 47-8375; Filed, Sept. 11, 1947;  
8:54 a. m.]

MANATEE BROADCASTING Co., INC.,  
BRADENTON, FLA.<sup>1</sup>

PUBLIC NOTICE CONCERNING PROPOSED  
TRANSFER OF CONTROL

The Commission hereby gives notice that on August 22, 1947, there was filed with it an application (BTC-564) for transfer of control of Manatee Broadcasting Company, Inc., licensee of Station WDHL, Bradenton, Florida, from N. A. Perry, Jr., Joe E. Foster, and Stella S. Foster to Wabash Broadcasting Company, Inc., 117 Main Street, Mount Holly, New Jersey. The proposal to transfer control of said company is grounded upon an agreement of August 12, 1947, under which the selling stockholders propose to dispose of all their holdings in said company, consisting of 170 shares of

<sup>1</sup> Section 1.321, Part I, Rules of Practice and Procedure.

\$100 par value common voting stock, which constitutes all the issued stock of the company, to purchaser for a total consideration of \$70,000. Of this amount \$20,000 has been placed in escrow, which amount together with an additional \$15,000 is payable in cash at the time the sale is approved by the Commission when the stock is to be transferred. The remaining \$35,000 is to be paid in 35 equal monthly installments of \$1,000 each with 5% per annum interest and is to be evidenced by 35 first mortgage notes, the first of which is payable 30 days after the above payment of \$15,000. Accounts receivable are to be adjusted by the sellers and buyer. The agreement is subject to transfer of a certain leasehold between the company and the city of Bradenton, Florida. Either party has a right to terminate the agreement if not approved within 12 months from its execution. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 the Commission was advised on September 2, 1947, that beginning on August 26, 1947, notice concerning the application was inserted in a newspaper of general circulation at Bradenton, Florida, in conformity with § 1.321.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from August 26, 1947, within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above-described contract.

(Sec. 310 (b) 48 Stat. 1086; 47 U. S. C. 310 (b))

FEDERAL COMMUNICATIONS  
COMMISSION,  
WM. P. MASSING,  
*Acting Secretary.*

[SEAL]

[F. R. Doc. 47-8376; Filed, Sept. 11, 1947;  
8:54 a. m.]

## FEDERAL POWER COMMISSION

[Docket No. G-938]

NORTHERN NATURAL GAS Co.

NOTICE OF APPLICATION

SEPTEMBER 8, 1947.

Notice is hereby given that on August 25, 1947, Northern Natural Gas Company (Applicant) a Delaware corporation having its principal place of business at Omaha, Nebraska, filed an application (a) for a certificate of public convenience and necessity authorizing Applicant to construct, acquire and operate certain facilities hereinafter described, and (b) for approval of abandonment and removal of a certain portion of Applicant's facilities, also hereinafter described, both pursuant to section 7 of the Natural Gas Act, as amended.

Applicant seeks authorization to:

(1) Construct and operate a new town border station at or near the corporate limits of Worthington, Minnesota, for sale and delivery of natural-gas to Min-

nesota Natural Gas Company (Minnesota Natural) for resale to the city of Worthington.

(2) Construct and operate approximately 11 miles of 6½-inch O. D. natural-gas transmission pipe line extending from the Worthington-Lakefield measuring station in a westerly direction toward Worthington, Minnesota.

(3) Lease from Minnesota Natural and operate approximately 10.3 miles of existing 4½-inch O. D. pipe line extending from the western terminus of the proposed new 6½-inch O. D. pipe line to the proposed new town border station at or near Worthington.

(4) Lease from Minnesota Natural and operate a second 4½-inch O. D. pipe line proposed to be constructed by Minnesota Natural and to parallel said existing 4½-inch O. D. pipe line.

(5) Acquire from Minnesota Natural and operate an existing measuring station at Lakefield, Minnesota, together with approximately 848 feet of 2½-inch O. D. pipe line extending from the end of Applicant's existing 2½-inch O. D. pipe line at the corporate limits of Lakefield to the said measuring station.

(6) Acquire from Minnesota Natural and operate meters, regulators and connections for farm tap customers located on the Lakefield and Worthington branch lines.

The facilities which Applicant seeks to abandon and remove consist of its present measuring and regulating station situated at the terminus of Applicant's existing 6½-inch O. D. pipe lines known as Lakefield Corners.

The application recites that the service proposed by Applicant is to continue to supply the natural-gas requirements of Minnesota Natural for resale and general distribution in the cities of Lakefield and Worthington, Minnesota. It is further recited that the changes in facilities are necessary due to the increased demands in the Worthington market area and the desirability of relocating the town border stations at or near the corporate limits of Worthington and Lakefield, Minnesota.<sup>1</sup>

The estimated total over-all capital cost of construction and acquisition for the proposed facilities is approximately \$118,900. Applicant proposes to finance such costs out of its own general funds.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of Rule 37 of the Commission's rules of practice and procedure (18 CFR 1.37) and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the cre-

ation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Northern Natural Gas Company is on file with the Commission and is open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of Rules 8 and 10, whichever is applicable, of the rules of practice and procedure (as amended on June 16, 1947) (18 CFR 1.8 and 1.10)

[SEAL]

J. H. GUTRADE,  
Acting Secretary.

[F. R. Doc. 47-8374; Filed, Sept. 11, 1947;  
8:54 a. m.]

## INTERSTATE COMMERCE COMMISSION

[S. O. 398, Special Permit 285]

### RECONSIGNMENT OF VEGETABLES AT KANSAS CITY, Mo.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Kansas City, Mo., September 5, 1947, by R. E. Schwebs, of car FGE 35460, vegetables, now on the Santa Fe to Omaha, Neb.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 5th day of September 1947.

HOMER C. KING,  
Director,  
Bureau of Service.

[F. R. Doc. 47-8371; Filed, Sept. 11, 1947;  
8:52 a. m.]

[Ex Parte No. 167]

### DELAWARE-NEW JERSEY FERRY CO.

#### NOTICE OF INVESTIGATION AND HEARING

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 4th day of September A. D. 1947.

Application of Part III to transportation by Delaware-New Jersey Ferry Co.

It appearing, that section 303 (g) of the Interstate Commerce Act provides,

among other things, that the provisions of Part III thereof shall not apply to ferries except to the extent that the Commission shall from time to time find, and by order declare, that such application is necessary to carry out the national transportation policy.

It further appearing, that the Delaware-New Jersey Ferry Co. is engaged in the transportation by ferry of passengers and property across the Delaware River between New Castle, Del., and Pennsville, N. J., and that a substantial part of its traffic consists of motor vehicles, loaded or empty, operated by motor carriers subject to part II of said act engaged in transportation by motor vehicle over continuous through motor-carrier routes between points in New Jersey and states north thereof, on the one hand, and, on the other, points in Delaware and states south and west thereof;

It further appearing, that by petition of June 27, 1947, American Trucking Associations, Inc., seeks assumption of jurisdiction by the Commission over the said Delaware-New Jersey Ferry Co., and the institution of an investigation into the lawfulness of certain of its revised rates and charges on motor trucks, loaded or empty, and for such other order or orders as the Commission may consider proper in the premises;

And it further appearing, that the said Delaware-New Jersey Ferry Co. filed a motion to dismiss the said petition for want of jurisdiction for the alleged reason that the said ferry is not engaged in interstate or foreign commerce, which motion also contained matter which in effect was a reply to the said petition;

It is ordered, That an investigation be, and it is hereby, instituted for the purpose of determining whether said Delaware-New Jersey Ferry Co. performs transportation in interstate or foreign commerce and, if so, whether application of the provisions of Part III of said act to any or all of such transportation is necessary to carry out the national transportation policy, and if application of said provisions to such transportation is found necessary, of making such findings and entering such order or orders in the premises as the facts and circumstances may appear to warrant.

It is further ordered, That the said Delaware-New Jersey Ferry Co., be, and it is hereby, made respondent herein; that a copy of this order be served upon said respondent; and that notice of this proceeding be given to the public by posting a copy of this order in the office of the Secretary of the Commission and by filing a copy thereof with the Director, Division of the Federal Register.

And it is further ordered, That this proceeding be, and it is hereby, assigned for hearing at 9:30 a. m., United States standard time, October 6, 1947, at the office of the Interstate Commerce Commission, at Washington, D. C., before Director Seal.

By the Commission.

[SEAL]

W. P. BARTEL,  
Secretary.

[F. R. Doc. 47-8370; Filed, Sept. 11, 1947;  
8:52 a. m.]

<sup>1</sup> On December 6, 1946, Minnesota Natural filed a complaint (Docket No. G-826) with the Commission against Northern Natural, pursuant to sections 4 (a), 4 (b) and 5 (a) of the Natural Gas Act, as amended, praying for an order requiring Northern Natural to acquire 21.3 miles of 4-inch pipe, etc. Hearing was held at Omaha, Nebraska, in this matter on February 13 and 14, 1947. Said hearing was adjourned to reconvene on May 19, 1947, but on further order of the Commission was postponed to reconvene on September 8, 1947.

## SECURITIES AND EXCHANGE COMMISSION

[File Nos. 54-156, 54-144, 54-40, 59-40, 54-53, 59-49]

CENTRAL PUBLIC UTILITY CORP. ET AL.

### ORDER APPROVING PLAN AND PERMITTING APPLICATION—DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 5th day of September A. D. 1947.

In the matter of Central Public Utility Corporation, File No. 54-156; Central Public Utility Corporation, File No. 54-144; Consolidated Electric and Gas Company, File No. 54-40; Central Public Utility Corporation, Consolidated Electric and Gas Company, File No. 59-40; Christopher H. Coughlin, W. T. Crawford and Rawleigh Warner, voting trustees under voting trust agreement dated August 1, 1932, relating to common stock of Central Public Utility Corporation, File No. 54-53; Christopher H. Coughlin, W. T. Crawford and Rawleigh Warner, voting trustees under voting trust agreement dated August 1, 1932, relating to common stock of Central Public Utility Corporation, File No. 59-49.

Central Public Utility Corporation ("Central Public") a registered holding company, having filed with the Commission a Plan, as amended, under section 11 (e) of the Public Utility Holding Company Act of 1935 proposing a program for its direct subsidiary, Consolidated Electric and Gas Company ("Consolidated"), also a registered holding company, to effectuate partial compliance by Consolidated with the provisions of section 11 (b) of the act, which provides that the publicly held \$6 Cumulative Preferred Stock of Consolidated (114,863 shares out of a total issue of 183,719 shares, 68,856 shares being owned by Central Public) be satisfied and discharged by distributing to said holders all of the common stock of Atlanta Gas Light Company ("Atlanta") Consolidated at the present time owning all of such common stock;

Central Public and Consolidated having heretofore filed separate plans pursuant to section 11 (e) of the act (File Nos. 54-144 and 54-40, respectively) which plans have been superseded by the instant Plan, and petitions to withdraw said prior plans having been filed by Central Public and Consolidated;

Public hearings having been held and the Commission having this day issued its findings and opinion with respect to the instant Plan, as amended; and

Central Public having requested that the order of the Commission, with respect to the relevant transactions of the instant Plan, conform to the requirements of, and contain the recitals, specifications and itemizations required by Supplement R and section 1808 (f) of the Federal Internal Revenue Code, as amended, and section 270-c (10) of the Tax Law of the State of New York;

*It is hereby ordered and recited*, Pursuant to section 11 (e) and other relevant sections of the Public Utility Hold-

ing Company Act of 1935 that the transactions involved in the consummation of the instant Plan which are particularly described hereinafter, are approved and found to be necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, and necessary or appropriate to the integration or simplification of the holding company system of which Central Public and Consolidated are members;

1. The assignment in blank by Consolidated of a certificate or certificates representing 802,553 shares of the common stock of Atlanta and the delivery by Consolidated to the agent described in section III of the instant Plan ("the distributing agent") of such certificate or certificates so assigned and of said shares for the account of and for transfer and distribution as provided in said Plan to the owners other than Central Public ("public owners") of certificates for or representing 114,863 shares of \$6 Cumulative Preferred Stock of Consolidated, being all of such preferred shares outstanding except those owned by Central Public;

2. The delivery by the distributing agent to Atlanta, at the end of the initial period of distribution of the certificate or certificates assigned in blank by Consolidated representing that part of said 802,553 shares of Atlanta's common stock not theretofore distributed by such agent, and of such undistributed shares for the account of and for transfer and distribution to the public owners of certificates for shares of Consolidated preferred stock as provided in the instant Plan;

3. The transfer to the public owners by Consolidated of said 802,553 shares of common stock of Atlanta concurrently with the delivery to the distributing agent of the certificate or certificates representing said shares assigned in blank, in exchange for the acquisition by Consolidated for extinguishment of such public owner's shares of Consolidated preferred stock on the following bases:

(a) Seven shares of said common stock for each one share of the 114,119 shares of said preferred stock originally issued in or about August 1932, and February 1933;

(b) Five shares of said common stock for each share of the 744 shares of said preferred stock originally issued in or about December 1945;

4. The distribution of all or any part of said 802,553 shares of common stock of Atlanta by Consolidated through the distributing agent during the initial period of distribution, and through Atlanta during the final period of distribution (as those terms are defined in the instant Plan) to the public owners or any of them, in exchange for the surrender for cancellation of their certificates for shares of Consolidated preferred stock on the bases above defined together with payment of the moneys and dividends, if any, that may be distributable to them pursuant to section VII and XII, or both, of the instant Plan;

5. The exchange and surrender for cancellation through the distributing agent during the initial period of dis-

tribution and through Atlanta during the final period of distribution, to or in accordance with the order of Consolidated or its successors by the public owners, or any of them, of their certificates for shares of Consolidated preferred stock pursuant to the provisions of and for the consideration defined in the instant Plan;

6. The payment of any moneys by Consolidated to the distributing agent and by the distributing agent to Atlanta for the account of the public owners, and the distribution of any such moneys by Consolidated through the distributing agent during the initial period of distribution, and through Atlanta during the final period of distribution to the public owners pursuant to and in accordance with the provisions of section VII of the instant Plan;

7. The payment or payments of any moneys by Atlanta to Consolidated and by Consolidated to Atlanta pursuant to and for the considerations recited in section IX of the instant Plan;

8. The payment by Atlanta to the distributing agent, during the initial period of distribution, of dividends paid by Atlanta during such period on the undistributed shares of Atlanta's common stock and the repayment by the distributing agent to Atlanta at the end of the initial period of distribution of all of such dividends not theretofore distributed by such agent;

9. The acquisition by Atlanta at the end of the final period of distribution of all of the right, title and interest of the public owners in and to the then undistributed shares of Atlanta's common stock, the then undistributed moneys paid to Atlanta by the distributing agent pursuant to section VII of the instant Plan, and the moneys representing the then undistributed dividends described in section XII of said Plan;

*It is further ordered*, That the instant Plan, which by this reference thereto is incorporated herein and made a part hereof with the same force and effect as if fully set forth, and all transactions, including those above described, involved in the consummation of said Plan, in the manner and for the purpose represented by the instant Plan, are approved and authorized by the Commission, subject to the terms, conditions and reservations of jurisdiction hereinafter set forth in this order.

*It is further ordered*, That the motions to withdraw plans heretofore filed pursuant to section 11 (e) of the act by Central Public and Consolidated bearing Commission's File Nos. 54-144 and 54-40, respectively, be and hereby are granted.

*It is further ordered*, That the application-declaration with respect to the disposition by Consolidated of its security interests in Atlanta, the acquisition and retirement by Consolidated of 114,863 shares of its \$6 Cumulative Preferred Stock, and the reduction by Consolidated of its authorized and outstanding preferred stock to 68,856 shares, be and the same hereby is granted and permitted to become effective.

*It is further ordered*, That the foregoing approvals and authorizations are

subject to the following terms and conditions:

1. That the authority hereby conferred shall be subject to the terms and conditions prescribed in Rule U-24;

2. That jurisdiction is generally reserved to the Commission to entertain such further proceedings, to make such supplemental findings and to take such further action as it may deem appropriate in connection with the Plan, as amended, the transactions incident thereto and the consummation thereof, and to take such further action as it may deem necessary or appropriate to effectuate the provisions of section 11 (b) of the act; and

3. That jurisdiction is specifically reserved to consider and determine the reasonableness and appropriate allocation of all fees, expenses, and other remunerations incurred or to be incurred in connection with said Plan, as amended, and the transactions incident thereto except the fees to be paid by Atlanta to its transfer agent, as such, and the fees to be paid by Consolidated to the distributing agent, as such.

It is further ordered, That this order shall not be operative to authorize the consummation of any of the transactions proposed in the Plan, as amended, until an appropriate United States District Court shall, upon application thereto, enter an order enforcing such Plan.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 47-8364; Filed, Sept. 11, 1947;  
8:51 a. m.]

[File No. 70-1540]

CONSOLIDATED ELECTRIC AND GAS CO. AND  
ATLANTA GAS LIGHT CO.

#### ORDER EXTENDING TIME

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 4th day of September A. D. 1947,

The Commission on the 3d day of July 1947 having issued an order granting an application and permitting a declaration to become effective regarding a proposal by Atlanta Gas Light Company to increase and to reclassify its outstanding common stock;

Atlanta Gas Light Company now having filed an application requesting that the period of time allowed by Rule U-24 promulgated under the Public Utility Holding Company Act of 1935 for consummation of said transactions be extended for a period of sixty days and giving for reason therefor that such additional time is necessary in order to permit certain necessary corporate action to be taken; and

The Commission finding that it is appropriate and in the public interest to grant such request;

It is ordered, That the time within which Atlanta Gas Light Company, shall effect the transactions recited in the order herein dated July 3, 1947 be and

hereby is extended for a period of sixty days.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 47-8365; Filed, Sept. 11, 1947;  
8:51 a. m.]

[File No. 811-279]

EMPIRE POWER CORP.

#### NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 8th day of September A. D. 1947.

Notice is hereby given that Empire Power Corporation (Empire) has filed an application pursuant to section 8 (f) of the Investment Company Act of 1940 for an order of the Commission declaring that Empire has ceased to be an investment company within the meaning of the act.

It appears from the application that the directors and common stockholders of Empire have duly voted to dissolve the Corporation pursuant to Article 10 of the Stock Corporation Law of the State of New York; that a certificate of dissolution was duly issued by the Secretary of State of the State of New York on January 24, 1945, and affidavits showing publication of such certificate were filed as required by law that as of February 5, 1945, there were outstanding 175,585 shares of Participating Stock, of which 34,115 shares were publicly held and the remaining shares were held, together with all the outstanding common stock by Eastern Seaboard Securities Corporation, a personal holding company of certain officers and directors of Empire; that on February 5, 1945, holders of the Participating Stock were advised of the dissolution of Empire, the distribution of its assets and the deposit in trust with a bank of cash equivalent to \$43.62 per share in final distribution of their portion of the assets; that on January 28, 1947, holders of Participating Stock were further advised that as a result of litigation, the Courts have determined that

they were entitled to an additional sum of \$16.09809 per share, and that cash for said sum was deposited in trust with a bank.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission in Philadelphia, Pennsylvania.

Notice is further given that an order granting the application, in whole or in part and upon such conditions as the Commission may see fit to impose, may be issued by the Commission at any time after September 22, 1947, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in Rule N-5 of the Rules and Regulations promulgated under the act. Any interested person may, not later than September 18, 1947, at 5:30 p. m., in writing submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 47-8363; Filed, Sept. 11, 1947;  
8:51 a. m.]

## UNITED STATES TARIFF COMMISSION

[List No. D-59]

S. S. WHITE DENTAL MFG. CO. ET AL.

APPLICATION DENIED AND DISMISSED

SEPTEMBER 8, 1947.

Application as listed below heretofore filed with the Tariff Commission for investigation under the provisions of section 336 of the Tariff Act of 1930 has been denied and dismissed.

Name of article	Purpose of request	Date received	Name and address of applicant
Dental burs.....	Increase in duty.....	Dec. 10, 1945.	S. S. White Dental Mfg. Co., Philadelphia, Pa. The Ransom & Randolph Co., Toledo, Ohio. The Leo S. Smith & Sons Mfg. Co., Pittsburgh, Pa.

By direction of the Commission.

[SEAL]

SIDNEY MORGAN,  
Secretary.

[F. R. Doc. 47-8360; Filed, Sept. 11, 1947;  
8:51 a. m.]

[Vesting Order 9662]

S. NAKANO

In re: Stock and bank accounts owned by S. Nakano, also known as Sakutaro Nakano. D-39-16963-D-1, D-39-16963-D-2, D-39-16963-E-1, D-39-16963-E-2.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That S. Nakano, also known as Sakutaro Nakano, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan),

## DEPARTMENT OF JUSTICE

### Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.



2. That the property described as follows:

a. One (1) share of \$12.50 par value common capital stock of Bank of America National Trust and Savings Association, 550 Montgomery Street, San Francisco, California, evidenced by Certificate numbered B 71997, registered in the name of S. Nakano, together with all declared and unpaid dividends thereon,

b. Four and a half (4½) shares of \$2.00 par value capital stock of Transamerica Corporation, #4 Columbus Avenue, San Francisco, California, a corporation organized under the laws of the State of Delaware, evidenced by Certificates numbered SFD 46481 and SFD 47011 for 3½ and 1 share respectively, and registered in the name of S. Nakano, together with all declared and unpaid dividends thereon,

c. That certain debt or other obligation owing to Sakutaro Nakano by Wells Fargo Bank & Union Trust Co., 4 Montgomery Street, San Francisco, California, arising out of a Savings Account, account number 34320, entitled Sakutaro Nakano, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

d. That certain debt or other obligation owing to Sakutaro Nakano, by Wells Fargo Bank & Union Trust Co., 4 Montgomery Street, San Francisco, California, arising out of a Savings Account, account number 35203, entitled Sakutaro Nakano, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same, and

e. That certain debt or other obligation owing to Sakutaro Nakano, by Bank of America National Trust & Savings Association, 500 Montgomery Street, San Francisco, California, arising out of a Savings Account, account number 3326, entitled Sakutaro Nakano, maintained at the Fillmore Post Branch Office of the aforesaid bank located at 1700 Fillmore Street, San Francisco, California, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt

with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 13, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 47-8381; Filed, Sept. 11, 1947; 8:48 a. m.]

[Vesting Order 9696]

HEDWIG MAUTZ

In re: Stock owned by Hedwig Mautz.  
F-28-400-D-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Hedwig Mautz, whose last known address is Schackstr. 10, Hannover, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows: Three thousand one hundred thirteen (3,113) shares of \$2 par value common capital stock of Cypress Abbey Company, 593 Market Street, San Francisco, California, a corporation organized under the laws of the State of California, evidenced by certificate number 259, registered in the name of Hedwig Mautz, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 19, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 47-8348; Filed, Sept. 11, 1947; 8:48 a. m.]

[Supplemental Vesting Order 9708]

KATHERINE SCHWEIER KLING

In re: Estate of Katherine Schweier Kling, a/k/a Katherine Schweier, deceased. File F-28-22231, E. T. sec. 15469.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9789, and pursuant to law, after investigation, it is hereby found:

1. That Hermann Kling, Frieda Hugnee Schweier and Maria Wegmann, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the Estate of Katherine Schweier Kling, also known as Katherine Schweier, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany),

3. That such property is in the process of administration by Harry Rabwin, as Administrator, acting under the judicial supervision of the Superior Court of the State of California, in and for the County of Los Angeles;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 25, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 47-8385; Filed, Sept. 11, 1947; 8:48 a. m.]